

11 Ireland.
Lords, House of
M I N U T E S *15 F L*

Minutes OF THE *Hargrave.*

PROCEEDINGS

BEFORE THE

LORDS COMMITTEES FOR PRIVILEGES,

UPON THE

SEVERAL CLAIMS

TO THE

Titles of Viscount VALENTIA, &c.

PRINTED AND PUBLISHED BY LEAVE OF THE HOUSE
OF LORDS IN IRELAND.

D U B L I N :

Printed by the Executors of DAVID HAY, Assignee of the late BOULTER GRIERSON,
Printer to the King's Most Excellent Majesty:

MDCC LXXIII.

10

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DUBLIN

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MDCCLXXII

Die Martis, 28 April, 1772.

Lord RANELAGH in the chair.

MR. John Annesley, the petitioner, being called upon, his agent, said his counsel were not arrived, and he did not know the committee was appointed to meet this day. He believed all the papers expected from England were brought over.

Walter Sweetman, who brought the papers from England, said he received them from the clerk-assistant and two agents there, and was directed to deliver them to such persons as the Lords here should appoint, upon the agents petitioning the Lords that he should hand them over, being first paid ten guineas, which was agreed to be paid by the agents in England.

He was ordered to lodge those papers with the clerks of the parliament, upon his being

paid, there to remain subject to the order of the committee, to be inspected in the clerk's presence; the petitioner John and Lord Valentia to be at liberty to inspect and take extracts.

Order of reference of the petition of Richard Annesley, claiming these titles, read.

The petition of Richard Annesley read.

Ordered to be taken into consideration by the committee at the same time as the petition of John Annesley.

The like liberty to have recourse to those papers given to the petitioner Richard, on paying a proportion of the fees.

Adjourned to the first of May.

Die Veneris, 1 May, 1772.

Lord RANELAGH in the chair.

The petition of JOHN ANNESLEY, and order of reference read.

The petition of RICHARD ANNESLEY, and order of reference read.

Council called in.

MR. Kelly, council for John Annesley, states his case; that Sir Francis Annesley, his ancestor, was by letters patent to him and the heirs male of his body, created viscount Valentia, by king James the first, and baron Mount-Norris, by king Charles the first; and the petitioner is heir male of Sir Francis.

To prove which, being indulged 'till tomorrow to produce the patent or inrollment; Mrs Charity Blake was produced, sworn, and examined, and said, she was going to eighty-three years old, her maiden name Annesley, her father's name Morris, her grandfather's John, who was the son of viscount Valentia.

Believes the first earl of Anglesey's name was Arthur. Believes that the first viscount Valentia's name was John, for her grandfather's name was John, and believes he was called after him; but that it will appear by the patent what his name was.

The first lord Valentia had issue male the first earl of Anglesey, and her grandfather; and she believes he had more sons.

The earl of Anglesey was made so by king Charles, she did not know but his name was Francis, not being clear in the name.

The first earl of Anglesey was succeeded in his titles of honour by James, John, and Arthur. Knows the petitioner very well, his grandfather was John Annesley of Ballyfax, her uncle; his great grandfather Francis Annesley of Ballyshannon, who was the son of John Annesley of Ballyshannon.

John, the son of Francis, had four sons, named, Francis, Maurice, John and Robert.

Q. Was John distinguished by any particular place?

He had Ballyfax.

Q. Do you mean that John, who had the four sons, was so distinguished?

It was John the third son. John Annesley of Ballyfax, was son of John of Ballyshannon. John of Ballyfax left two sons, Francis and Richard; I do not know but he had more, but I know he had them. They are both dead: Francis died without issue male or female.

A

female.

*Unimpaired
by the vic-
count of
Valentia
only es-
tablished
in Francis
Annesley
in reversion
expect^{ed} on
the death of
Sir Henry
Powers
first Val-
entia
without
issue male*

*See post 35.
as to a third
petition by
Richard An-
nesley esq.
The reference
of it to the Irish
Lords.*

female. Richard left two sons, John and Charles, and several daughters; one of his issue is John the petitioner.

I was very well acquainted with all my family: I knew Richard, late earl of Anglesey, very well.

Q. Supposing he had died without lawful issue, who is now heir male of the first lord Valentia?

My father, if he was now alive; and now, John Annesley the petitioner: I know of no other that has a right to it.

Q. Who was considered by the family, in the life of earl Richard, as the person to inherit the honours?

Francis Annesley ruined himself upon the expectation. That Francis was uncle of the petitioner. In case of the death of Francis without issue male Richard was considered in the life of the late earl as intitled to the honours: Francis, the eldest son of John of Ballyshannon, died without issue; Maurice is dead without issue male; John was the third son of John of Ballyshannon.

Q. Did you know the name of the eldest son of the first lord Valentia?

Arthur, earl of Anglesey, was his name; the second, my grandfather: The first lord Valentia had the earl of Anglesey and my grandfather, and I believe more sons; one who was drowned in the Thames when going ambassador abroad; but I do not know his name, nor the names of any of the others, except those two.

The witness desired to have what she said read to her, which was done by the clerk, and being farther examined, said, she did not know of any issue male left by Richard late lord Anglesey. He was married to a Mrs. Simpson, by whom he had several daughters; and to a Mrs. Donovan in the life-time of Mrs. Simpson, with whom he lived a great many years. The daughters by Simpson were grown up women before he married Mrs. Donovan. Cannot remember what time it was that he married Mrs. Donovan.

Cross examined.

Q. Was you present at the marriage of earl Richard with either of those ladies?

I was not.

Q. Did you ever hear he was married to a lady named Prust?

I heard he was married to a lady in Biddeford.

Q. Did you hear whether that was before the marriage with Simpson?

It was before, for my father gave 30l. to them.

Q. Did you ever hear that he was married to any other woman except those three? Never.

No other witness was called.

Council for Richard Annesley were called in, and stated his case.

Mr. RECORDER.

IT will be only necessary to state part of the petitioner's case, by which it appears he is the lawful issue male of Richard, who was last possessed of these honours. He had, about 1740, a considerable intimacy with Mr. Stephen Hay, who was married to Catherine Salkeld, the daughter of William Salkeld, a merchant of extensive dealings, integrity and property: He had another daughter called Anne. This intimacy naturally introduced him into her company: Her agreeable person and conversation engaged his affections, and he proposed marriage to her father, who, on account of some objections, rejected them. But her affections being engaged by him, he prevailed on her to consent to a private marriage, and they were married according to the rites of the Church of England. Immediately afterwards he informed Mr. Hay and his wife, and introduced her to them: But the family was not perfectly satisfied with this clandestine proceeding, and was determined to have it done again. In August 1742, a few months after the private marriage, earl Richard invited them and others to dine with him in London, and in particular the clergyman who had privately married them. On that occasion Mr. Hay desired to have the ceremony re-iterated, to which my lord had no objection; and it was then performed in the presence of them and of major Carrington, Mrs. Knight, and several others. They cohabited as man and wife while he continued in England, and in 1742-3 the petitioner was born, and great attention was paid to him. Soon after his birth my Lord was under difficulties, and obliged to return to Ireland to settle his affairs, with a declared intent to return to his wife and her friends; but he had before entered into an improper connection with Juliana Donovan in Ireland, and on his return she endeavoured to renew it, and to estrange his affections from his lawful wife, which she carried

carried into execution partly, but not against his son and heir. My Lord went back and brought him to Ireland, kept him at Camolin till ten years old, and then at a boarding-school in Ross, where he was treated as a Lord's son. But the claimant's mother was so affected with his conduct, and the marriage set up by Mrs. Simpson, that she fell into a consumption, and died in 1747. From her death, the undue influence of Mrs. Donovan increased. The claimant remained in this situation ignorant of his family by his mother's side, and of his rights, until a late inquiry before the Lords, which led Mrs. Hay to make inquiry after this child, whom she always esteemed dead. She found him, and gave him information of his rights, tho' to her own great prejudice, and gave him a proportion of the property which was his right; and he has brought his claim before the Lords as soon as it was in his power.

Catherine Buntin was produced and sworn, and said, she was the daughter of William Salkeld, late merchant in London.

Q. Was he a gentleman of considerable dealings, or in what other Light was he considered?

His word would be taken for thirty thousand pounds any day upon change.

Q. Was the family of your father a family of consequence as to reputation, or how otherwise?

He was grandson to Sir Francis Salkeld of Whitehall in Cumberland; serjeant Salkeld, who is well known, was first cousin of my father.

My father had two other daughters besides me; their names were Ann and Mary.

I was married to Mr. Stephen Hay of the county of Wexford. I knew Richard late earl of Anglesey, there was a very great intimacy between him and my husband. He was introduced into Mr. Salkeld's family by Mr. Hay, and dined there very often. He introduced himself more properly to my sister Ann, whom he saw there first at dinner. It was in consequence of his connection with Mr. Hay, that he was introduced into the family of Mr. Salkeld, whose family resided in Bartholomew-lane behind the Royal Exchange. From the first time he saw my sister Ann he made her frequent visits: A proposal of marriage succeeded that intimacy; the proposal was first made to her and then to her father. These proposals were refused by the father.

Q. What happened afterwards between them?

He made no visits for three weeks after; they met one day in St. James's Park, and then he renewed his visits; in consequence of that renewal a marriage happened: It was a private ceremony at May Fair, at Keith's chapel.

I was not present at the marriage, but I was with her that day. I saw her always in company with him while he was in England, because he cohabited with her while he remained in England. He introduced her as Lady Anglesey after the first marriage into my family, I mean my own family. The first marriage was very displeasing to that family; for in the first place his lordship's character was extremely bad. This private marriage was first known to my father within a very few days after. It was on the fourteenth of May, in the year 1742.

Q. Did any of the family require a further ceremony to be performed?

No. Mr. Salkeld was so much disobliged that he did not see her after for some years. My husband, Mr. Hay, desired a further ceremony. I was present at a further ceremony at my lord's house in Bolton-row, in August, 1742. I can't remember the exact day, but it was the beginning of August.

Q. What was the occasion and invitation of your attending there; and was there any ceremony of marriage; and between whom?

There was a marriage between lord Anglesey and my sister Ann. This ceremony of marriage was performed by a reverend gentleman of my lord's acquaintance, whose name, to the best of my recollection, was Gold; but I cannot speak with certainty: he did officiate in the habit of a clergyman, and I saw him frequently with my lord, and never saw him in any other dress. That ceremony was performed according to the form prescribed by the Church of England; and the prayer book was brought up by one of my lord's servants.

He cohabited with her constantly till he came over to Ireland upon the trial of James Annesley. My sister was known afterwards by the title of Countess of Anglesey; she was called by him Lady Anglesey.

I have been present with him most days while he was there, and never heard him call her by any other.

A good many were present at this ceremony of marriage besides me; there was major Carrington and his wife, Mr. Watson and

and his wife, and several gentlemen of my lord's acquaintance, and Mrs Knight, with whom I lodged, and several others present at the time, and my husband Mr. Hay.

Mr. Hay is dead these 20 years, Mr. Carrington and his wife I believe to be both dead, I was told so, they were not of my acquaintance, but I made an inquiry before I left England, and believe they are dead; Watson and his wife are both dead as I am told; Mrs. Knight is living; I can recollect the conversation between my husband and lord Anglesey the day of that marriage, lord Anglesey was extremely pleased at the thoughts of his going to have a son and heir of his own, and upon Mr. Hay saying he imagined he would be tired of it by this time, he said he was so far from repenting, he would do it again if it was to do to morrow, or to that effect. Upon which Mr. Hay said, it might be as well done now as we have a reverend clergyman in the house, and then upon my lord's ringing, a servant went for the prayer book.

Q. Did he treat her with affection?

In the most tender manner, and with all the affection any lady could expect from her husband.

There was a child born during that cohabitation, Mr. Richard Annesley, that is the present claimant.

That child was born in the house of his father and mother in Bolton-row, and very great rejoicings were upon the occasion. Upon the birth of that child those rejoicings were shewn by the father, who treated that child as his son and heir, and as lord Altham.

The sponsors were major Carrington, one Mr. Green, a nephew of lord Anglesey's, and I was godmother. This child was not put out to nurse till after lord Anglesey came to Ireland. Elinor Fetherston was his wet-nurse in the house till there was no further occasion for her while lord Anglesey kept a house at all.

Lord Anglesey returned to Ireland in August after the birth of the child which was in March, the March after the first marriage, he was obliged to come over upon a cause between him and James Annesley, who was then suing for the titles and the estate.

He was in very great distressed circumstances from the first time I knew him.

My sister died in 1749.

She died of a consumption. She never was in Ireland in her life.

Q. Was that distemper increased from any thing?

From his character, not so much from his neglect. But her grief was occasioned by a marriage she heard of between him and one Mrs. Simpson in Ireland, who was suing his lordship.

My mother was intitled to a property in England, which I and a sister I have enjoy, an estate very well known in the north of England called Wodenhall.

That child was between three or four years old when he left England, he was removed to Ireland in 1746, to the best of my memory it was immediately after the tryal of those unhappy lords. He was removed by lord Anglesey, his father.

Since her death numerous inquiries were made after him, and a general belief of the family was, that he was dead; but there were various accounts, some that he was gone into the army.

Q. If known to be living at the time of the death of his mother, would he be intitled to any?

The Question was objected to.

Q. What inquiry did you make?

I desired counsellor Hippeley to make inquiry for him; it was from my affection to him; and as he had an equal right to any thing we enjoy that I made the inquiry.

Cross examination by Prime Serjeant.

That husband of mine is not now living, my present husband is living, he is in an independent situation in life, and ever was; he is not of any profession; he was brought up a gentleman, and is of landed property both in Cumberland and Yorkshire.

I intermarried with him upon St. Thomas's Day, fourteen years last.

I married Mr. Hay in 1740, at that time he was an officer in a foreign service, in the French service, he was a captain, he was in possession of that commission at the time of my marriage, he never did return to the French service, he died in January 1749-50. I think he did not remain in England from the time of my marriage with him till his death, he did not go to France from the time of my marriage, he went to Germany to the Spa and many other places during my marriage. He had been in the Prussian service besides, after my marriage; I cant tell exactly at what time he went into the Prussian service,

service: I believe it was in the year when the congress was held at Aix. He went in hopes to recover his health and did not: And was obliged to retire from any service. He said he had a commission of lieutenant colonel in the Prussian service: He returned from that service; I believe, in 1747, for it could not be very long. He did not remain long in the Prussian service.

Q. What do you mean by long, was it half a year or a quarter of a year?

I can't be more particular. I heard him say he had a lieutenant colonel's commission. I suppose he entered into that service as a lieutenant colonel from 1740 till he went into the Prussian service; he certainly did not receive any pay in the French service, for he had given up that commission in the French service. At the time of my marriage he certainly had a commission, he did not give up that commission till after my marriage, for which I can give a very good reason, because he had a duel and could not very well return. I dare say that it was a year after the marriage that he gave up his commission; from the time of the marriage he did not receive any pay as a French officer; he had other property, money, all the property his uncle lord Galmoy died possessed of, who was himself in the French service.

I can't tell what he was left by him, for it was left to him before I was married; no doubt he had some of that money at the time of my marrying him. My marrying him was not with the consent of my father.

Mr. Hay was not in distressed circumstances in 1743, nor in 1742, nor in 1741; in 1745 his circumstances were such as to live like a gentleman; he was not in affluence nor was he in indigence; he was not in 1745 in distressed circumstances to my knowledge.

I did know the late lord Doneraile, I can't tell what year. He was an acquaintance of Mr. Hay's at the time of my marriage, and was so long before; he was not an acquaintance of my sister Ann's, I do not know that she knew him.

My father's reasons for refusing consent to the marriage was both from his character and circumstances as he then stood; my father and I had conversations on this subject. His character was sufficient if there had not been any other; I never did hear my father mention any other reason but those two: Fathers do not commonly give reasons to their children for their refusal. I did not marry with my father's consent, my father did not

give me any fortune. I had a fortune independent of my father: he did not give me any portion.

Q. What was that fortune of yours at the time of your marriage?

I submit whether I am obliged to answer such a question.

I had one thousand pounds independent; I came to it by an aunt that left it to me, her name was Ellin Abney; that was left to me a child. I can't tell whether by will or how it was left to me.

Q. Do you remember that aunt Abney?

I do not.

Q. How did you know it then?

Because my grandfather had it and paid me the interest of it. My grandfather was not living at the time of my first marriage; he died in 1731; from that time to 1740 my grandmother paid me the interest, she died in 1759; no, it was in 1749-50. My father was never perfectly reconciled to me after my marriage, but I have been at his house, but more frequently saw him at other people's houses; my father died in June or July 1754; during his life he did not give me any portion, he made a will, but left no legacy to me.

I do not know that he did make a will, for that is to be determined yet, there is a contest about it.

I can't tell, what fortune my father designed with my sister; my lord asked only 2000l.

She was aged eighteen at the time of her marriage. I was about twenty then. I cannot conjecture, what fortune he would give to my sister or me, for while he lived he did not intend to part with any of his money. I always understood it to be his resolution not to part with any thing to his children in his life.

My father died in very good circumstances, I cannot tell how much. I did suppose, he was very rich; his effects were left in the hands of a trustee, one Manby a bookseller. I cannot tell what was the amount. The contest relative to that will is not yet determined; the persons contending are a sister and brother-in-law of mine, who are contending with the trustee for the effects. The question in that suit was, whether my father made a will or not. If that was my father's will, he does not mention scarcely any fortune; they, who made it, knew nothing of the matter. It did mention the Cross-keys inn in Grace Church-street, and an estate near York, and library and furniture; it does not mention, what that personal fortune

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was.

was. The estate in Yorkshire he has left to my sister Mary Prescott, and every thing in the will left to her; there was some thing left to a clerk of his, and the clerk's wife, who was his servant. Mrs. Prescott I believe was executrix, she is the person who is to have all for her life; the remainder was to a nephew of my father's, who is since dead. I think it was the next immediate remainder, but will not be positive. Mrs. Prescott was left sole executrix without her husband; that will is in Doctors Commons; that will is not in litigation now; Mrs. Prescott is in dispute with the trustee; the will is proved a good while ago, more than seven years ago; there was a contest about the proof of that will; it did not last four or five years. I had a caveat in the Commons about three months; I did not interfere except by entering that caveat.

My father left no son, if that will was set aside, I certainly should be intitled to one third of the personal fortune.

Mr. Hay called after the marriage of my sister to lord Anglesey; and the child was called lord Altham; my father never was reconciled to her after the marriage; I do not know whether he ever saw his son-in-law, but believe he did. He did see his daughter the countess, for he went to Millhill to see her, but I do not know whether he saw her, he saw her after the marriage a great many times before her death.

I do not know my father had any relations in London. They had friends and acquaintance there. Never any of the family visited her at all afterwards, till his return from Ireland, till the affair was over.

Neither I, or my sister, or my father at that time heard of Mrs. Simpson; my sister heard of it first, when lord Anglesey sent three daughters over to the care of my sister, their names were Dorothea, Cary, as they called her, or Caroline I believe, and Elizabeth, I do not know Dorothea now; I am told she married one Dubois; he sent over these three daughters, after he came to Ireland, before his trial came on; I can't tell whether that was in 1743 or not. I saw a letter from my lord, wherein he tells of it, and recommended those young ladies to the care of my sister; he calls them his daughters, I do not believe he does by their christian names, but calls them his three daughters, I do not know what he called them; I never saw them. They continued with my sister as long as my sister would con-

tinue with them; I cannot tell how long. I saw that letter, I cannot tell how it was addressed, I had not that curiosity to look on the back, I do not know whether it was directed to her at all, or whether there was any direction upon it. I have seen several letters from lord Anglesey, they never were directed to her, always inclosed to major Carrington. My sister was commonly known by the title of Anglesea after the marriage. Whether those letters were sent open or under seal to Carrington I cannot say, but he always signed himself her affectionate husband. I believe they were not sent open; I cannot tell how the covers were directed, but I dare say they were directed to her in the proper style.

My mother died in 1764, and was reconciled to my sister Ann for this marriage, and was with her at Millhill.

I did not take up any goods from tradesmen in London in 1743; I did not in 1743 put myself into mourning, nor set up an equipage in that year. I had a waiting-job, if you call that an equipage. Mr. Hay was then living; I had sufficient to defray any expence I should enter into at that time.

Q. What was your husband's income by himself, and by you at that time?

I never knew, never asked him, he had not 500l. a year I dare say; my husband unhappily played pretty deep, so that some years he might have had more perhaps.

Q. Was you arrested for debt in 1743?

I was for a debt, my father thought fit to know whether I was really married or not; it was no debt of mine, it was a debt by order from my father while I was with him, I suppose it was to discover whether I was married or not. I cannot tell what other view my father could have. I did not cohabit with him till 1742; I did not in 1740, but from 1742 till his death my father certainly did know I lived with him.

From May to August 1742, I certainly did visit my sister, and considered her as married to lord Anglesey.

The conversation at the time of the second marriage was after dinner, there never had been any talk of a second marriage before that conversation. That second marriage was not desired by my father; he never was thoroughly reconciled with me for my marriage, nor with Mr. Hay who did not visit at my father's after the marriage; I do not know that he had visited there upon the same terms as before, he did not visit after the marriage at my father's.

Q. Then

Q. Then how could he introduce ~~him~~ ^{not} ~~me~~ ^{me} ~~my lord~~ ^{my lord} introduced himself into the family, he introduced himself to my father. He first got acquainted with my sister at my husband's lodging. I was sent to the North in 1740, because my father thought to prevent the marriage between me and Mr. Hay. I staid almost two years there, and returned to London in the beginning of March, 1741-2. I was married in the year 1740: I did not tell my father at that time, that I was married. When I returned, I went to my father, but did not stay with him at all. I did not stay a night in the house. Mr. Hay was in London. I did see my father on my return, and then told him I was married. The reason why I then told him I was married, and not before, was, that I was more afraid before, and I had told my mother of it, and she acquainted my father. My father was displeased, as other fathers on the same occasion.

Q. How soon after was it that your father tried this experiment to have you arrested?

I believe, it was about two months after my return to London. When I left my father's, I told him I was going to my husband.

My sister was constantly called lady Anglesey, I never heard by any other name. She was visited as such, but received few visits. I never saw persons of distinction in my lord's house. She was constantly called so.

Till his return in 1746 she went into the North, and lived with her mother, immediately after Mr. Richard Annesley came over with his father.

I cannot name any of her visitors between 1743 and 1746.

From 1743 till his return to England she resided twelve months at Mill-hill and Bolton-row, till her own mother took her away; I cannot tell when she took her away, but it was before my lord's return, but I cannot tell how long before. She did not return from the North to meet my lord. She was with me and my husband, but I cannot tell how long. She had a wet nurse fourteen months in the house, then she went to live with her mother; and it was in obedience to her mother, who had heard of the affair of Mrs. Simpson, and insisted she should leave the house: I believe that was in 1743, but cannot say whether it was in 1744. She went with my mother to Bloomsbury-square, but I cannot tell how long she resided there, but she resided either with me, or at my lord's house, or with my mother.

My sister never had heard of that constitution before, to my knowledge; but she must have known it before that, because of that letter about the daughters.

My sister did immediately come to my lord after his return, but never did reside with him: there never was any cohabitation after.

The child was in Mr. Carrington's hands at the time of my lord's return. My lord was to support it. It was upon his credit he was supported. It was by his order he was put there. I cannot tell whether my lord did pay. My sister did not pay any thing towards the maintenance. She had the child brought frequently to see her during that time. She did not absent herself from the child during a considerable part of that time.

I cannot tell whether my sister had heard of the marriage with Prust before or after. She must have heard of it before, for my lord was then in second mourning for that lady. My sister believed he never had children by Prust, then she must have known those three young ladies were the daughters of Simpson.

I did not know a woman of the name of Glover.

I have heard of a natural daughter of my lord, of the name of Ann, but never saw her. I have heard, and believe she was in the house of Mill-hill. I believe she was sent there to marry a son of this major Carrington.

My lord took over his son to Ireland when he went. The boy's mother was unwilling to part with him, and was afraid he would not have the same treatment as under her own eye: She very frequently saw him in the mean time, and he was brought to see her.

My sister died in February, 1749. She very often enquired for this boy, and many letters were wrote to my lord by Carrington and his wife, but never could get any answer. I never saw those letters, but am very sure there were many such letters.

Q. Was information sought from any other person by your sister?

I believe no person was so likely as Carrington; but there were other means, for I have wrote to my lord myself several times, but I do not know that my sister wrote during that time between 1743 and 1746. I do not know but my mother might. I do not know whether from my father, but there was from myself, but no answer.

She continued the style of lady Anglesey after. I caused an inquiry by a counsellor Hippeley, I believe four or five years ago. I believe

believe more : I believe seven or eight years. From him I received no account till about four years ago, for Mr. Hippeley has been at Bath ever since his return from Ireland, and I was in the North. About three years ago, I believe, he gave me an account that this person was living. It was part of my inquiry in what manner he was treated, and by what name he was called.

I saw one named Connor, an attorney. My husband had not been much in the county of Wexford many years. No doubt this was a matter of notoriety in the county of Wexford. Not above two years ago that I knew he was living. I did not receive the account from Mr. Hippeley's own mouth; but from a gentleman in London, called Lush, in Roll's-buildings, who told me that he was living; that Mr. Hippeley told it to him.

I did not hear when that matter was determined by the lords.

I am acquainted with the hand-writing of my late husband.

A letter shewn to her, which she said was not her husband's hand writing.

Two other letters.

I cannot swear to the hand writing of Mr. Richard Annesley, I have seen him write; have seen him with a pen in his hand, as that gentleman has. I do not know whether I should know his hand writing.

Q. When did you communicate to Mr. Richard Annesley, that he had a title to these honours?

To every body that I could meet. And this Mr. Hippeley, I suppose, was the person who communicated it here in Dublin. I communicated it to Mr. Richard himself not twelve months ago : It is within twelve months; it was in London. I believe it was in July last, but cannot take it on my oath.

I have seen Mr. Richard Annesley write, but cannot say I know his hand. I have received letters from him, but I do not know whether this paper is his hand writing : I cannot form a belief about it.

About two years ago I received the information from Lush. I did not know where to inquire, but I desired Mr. Hippeley to do so; but I did make many inquiries; did not receive any information at all. My late husband had a brother in the county of Wexford, but I believe he is not living. I have

been told so two years ago. I believe he had two or three nephews. I never wrote to any of my husband's friends in Wexford about it, for I was not acquainted with them.

My lord made himself the proposal to my sister, not my husband; and my lord himself made it to my father : I was not present at the time of the proposal. I heard my father, and I heard my lord say so, more than once. My father was offended with me at that time; but yet I saw my father many times, though there was no perfect reconciliation.

Cross examination on the part of John Annesley, by Mr. Kelly.

I have heard of a woman of the name of Juliana Donovan, and heard my lord speak of her six or seven or eight months after the marriage, and that was owing to a letter he had received from that lady. I did see that letter, not the name signed thereto; I am very certain it was not signed Anglesea.

Q. What did my lord say of her at that time?

The witness seemed unwilling to answer, and said she wished to be excused; but was told she must speak out.

He did not treat her proper or becomingly. My lord's language was sometimes extremely vulgar, with oaths, damned her for a bitch, and some very unbecoming language. The lady, by the account he gave of her himself, was in a very indifferent situation of life; a dependant on my lord; wanted some money or support from him; and had a child by him, as the letter mentions. I think the letter desired subsistence for her and her child by the earl of Anglesea. She stiled herself a dutiful servant. I have heard him speak of her more than once; never as a wife, but as of a low station in life, and as of a servant he had a child by. I gave very little credit to any thing he said. He sent her no money at that time, but did afterwards at the repeated instances of my sister and myself : He said he would send 20l. or 20 guineas.

Examined by the Lords.

I was married about a year or three quarters before my sister.

After I went to Mr. Hay's house I did not visit frequently at my father's : My father was not perfectly reconciled at the time of

the

the marriage of my sister. My sister did visit frequently at that time, and with the knowledge of my father did visit there. My father had no other fault with me but that marriage, and therefore had nothing to fear by letting my sister come to see me, or me her. I had committed no great offence.

Those three ladies were recommended by lord Anglesea as three daughters he had by one Mrs. Simpson. My sister must have known it from them. They lived with her 'till my sister left them in the house. My sister did make the objection to receiving them, but it was his interest, lest they should be prejudicial to him at the time of his trial. They were called miss Simpsons, not called ladies.

My arrest was not till after my sister's marrying lord Anglesea.

I have heard him say, that his son and heir, whoever he would be, would be intitled to the estate and honours of the family.

Adjourned 'till to-morrow.

Die Sabbati, 2 May, 1772.

Lord RANELAGH in the chair.

Council called in.

Mr. Lodge, deputy clerk of the rolls, produces the introlments of the patents of creation of Valentia and Mount-Norris.

A second witness called on the part of the petitioner Richard,

Elizabeth Knight, examined by the Recorder.

I Was 75 years old the 6th of November last, born in 1697; was first married in 1718 to Thomas Carr, afterwards married to John Knight, he followed no business; he died in two months after he married; about 15 or 16 years ago. My first husband was a linen draper on the Strand: he died in 1731.

Q. After his death where did you live, and how get a livelihood?

I had money at interest, and took a large house and furnished it to let lodgings.

Q. Was you acquainted with Mr. and Mrs. Hay, in any, and what year?

They came to lodge with me in 1742.

Q. Was you acquainted with Ann, sister of Mrs. Hay, in that year?

Yes.

Q. Did you visit her in any, and what character, in that year?

She came to lodge with me. Lady Anglesea, that was Ann Salkeld, before she married, came to lodge with me.

Q. In what street did lord Anglesea live this time?

In Bolton-row.

Q. Do you recollect dining with him in August, 1742, upon any, and what invitation?

Upon the invitation of Mr. and Mrs. Hay, I went with them there: I wanted to come away, but my lord insisted upon my dining there. It was in August, 1742, I cannot tell the day. Several company dined there that day; there was a major and his wife, he was very intimate in the family, I cannot recollect his name, but shall presently, for I am of a great age. There was a clergyman there, and somebody else, but I don't know who, for it is so long ago. Mr. and Mrs. Hay were there that day, or else I had not been there.

After dinner lord Anglesea and Mr. Hay had some conversation which I did not mind the first of, but I heard Mr. Hay say, I thought you would have repented of it; and he said, No, he would do it again with pleasure. They were joking with my lord about my lady's being with child; and he said, he did not repent, but would do it again; and a prayer book was brought, and the ceremony said over.

Carrington was the major's name.

Q. What ceremony was it you was present at?

The question objected to, as no evidence is given relative to any ceremony.

C

Q. What

Q. What did you see doing that day?

I heard the ceremony of the Church of England, to which I was brought up, and by a clergyman, the ceremony of marriage between lord and lady Anglesea. I cannot tell how the clergyman was dressed; I do not recollect; but he was a clergyman, for I heard my lord say he had performed that ceremony before for them; and I think his name was Gold, but I am not positive.

Q. Did lord Anglesea say where that former ceremony was performed?

I did not hear him say that, only that he had done it before.

Q. Who were the persons present at the ceremony?

Major Carrington and his wife, who were strangers to me at that time, and more company, but cannot tell who; and Mr. and Mrs. Hay were present.

Q. After this time had you acquaintance?

I had not any acquaintance with my lord; I never spoke to him, tho' I saw him once or twice.

Q. Had you any acquaintance with lady Anglesea?

Yes, she often visited Mr. and Mrs. Hay both before, while her sister lodged at my house, and after they went away, her ladyship was pleased to honour me with her visits.

Q. During your acquaintance after this ceremony of marriage, in what light or character was she treated?

Always as lady Anglesea. She died of a deep consumption or broken heart, I do not know which; I mean by an inward decay.

Q. Was there any subsequent issue of that marriage?

There was the now Mr. Richard Annesley; he was brought to my house when a month or five weeks old, and I saw him afterwards several times at Mrs. Carrington's. Mrs. Hay happened once to be to see me when the child was brought to me: I cannot recollect whether more than once.

Q. In what light was this child considered and treated?

As lord Altham, they told me.

Q. What kind of attendance paid him?

I cannot tell, but a maid and nurse brought him first to me; and afterwards a maid came with him when he could walk about the room; he was in a blue and silver coat. I do not recollect the name of that nurse. Mrs. Hay is now Mrs. Buntin.

Q. Where is she?

She was here yesterday, I believe.

Cross examination by Serj. Dennis, for lord Valentia.

Mr. and Mrs. Hay came to lodge in my house in 1742; I think it was in July. I do not know where they lodged before; did not know either of them before they went to lodge with me; did not know any of Mrs. Hay's family before that time: they continued to lodge about three months at that time, but they lodged several times at my house from July about three months, to the best of my remembrance; it might not be quite so long, might want some days of it. They took the lodging by the week; cannot tell how much a week; but think it must be about a guinea, for I have a very good house, and no cheap rooms, I assure you. They did lodge at my house at other times, more than once or twice. Mr. Hay went abroad some where to the Wells, and I did not see them for two or three years, but not two or three years from that time.

Q. Did you often visit at lord Anglesea's?

No, never from that day, it was by chance, never before that day was there. I had seen lady Anglesea before that day come to visit her sister at my house: her ladyship had invited me several times, but I did not go till that day. They were strange acquaintance to me; I had not seen his lordship at least, and did not chuse to go: I went, as she had desired her sister to bring me upon the invitation; I was in the humour of going then.

I never had any conversation with lord Anglesea after that day, unless once I might have made a courtesy or so, when he called with Mr. Hay, but I do not know whether he did or not. I saw the lady at my own house. My lord was apt to swear. I had several people of fashion, where I was better acquainted.

Q. Was it a solemn ceremony?

It was a very solemn ceremony.

Q. Was it done in a jocular way?

I cannot tell. No, the ceremony was not performed in joke. I heard him swear two or three times. I never was in his company but then: It was about twelve o'clock when we went out; I suppose we dined at the usual hour, but cannot tell: I spent the evening there. This ceremony was after dinner; we did not leave the room.

Q. Was the bottle on the table?

I do not know that: cannot recollect; do not know whether they sent away the bottle before the ladies went. It was not half an hour after dinner that this ceremony was.

Q. How

Q. How was the ceremony introduced ?

It was upon speaking of my lady's being with child. My lord mentioned it, being overjoyed at it, and he was bragging that his wife was with child. Mr. Hay said, I thought you would be tired of matrimony by this time. No, said he, I would do it again. I know not how many people were there; there was a strange person or two that I did not know of, or more; there was not half a dozen more, for that would have made a large table indeed.

I visited lady Anglesea after this, after lord Anglesey was gone to Ireland I believe; but I cannot tell how long that was after; I did not see lady Anglesea for a great while after; I believe she went out of town to a country house; she lodged with Mrs. Le Sage, a widow in King's-street, St. James's-square, when I visited her; I cannot tell where she went when lord Anglesea went to Ireland, but believe to Mill-hill, I do not know, I never was there.

The child was at Major Carrington's, and nurse and all; I cannot tell where major Carrington lived; I do not know any thing of him or captain Hay, or what regiment they belonged to; he did not live in Fetter-lane, I did not visit him there; I did not visit major Carrington; but happened accidentally to call at the house with one of my lady's sisters. I do not know what business he followed, nor whether he wore a cockade; never saw him but twice.

The sister's name was Mary Preston, she was not married then, she was then Mary Salkeld; we went to buy some things we wanted, and she told me she would call at that place; I was intimately acquainted with that young lady both before and after; I did not know her before Mrs. Hay went to lodge at my house, she did not live at her father's at that time; I can't tell where she lived, she came to town on a visit; but she lived with me three years after that time I speak of; her father was in the city, and lived in Red-lion-street; she did not lodge with me while single, but after she was married to Preston; I believe she was then with her sister Hay, but don't know where she lived; don't know whether she lodged in the City or Westminster, am not sure whether it was not at that Mrs. Le Sage's; but know not.

I believe the mother of those ladies lived in Yorkshire with her Mother Mrs. Jackson, near Doncaster; I believe she did not live with her husband at that time, but with her mother; I know not the cause of the separation.

Q. Did you never hear of any suspicion of an improper communication with another man?

Never. I do not know, nor did I make it my business to inquire the cause of that separation.

Q. What title did Mr. Hay go by?

Captain Hay, we always called him; I can't tell in what service, but believes he was abroad; I have seen several gentlemen come to visit him; a French gentleman or two. I believe his religion was the church of England, but cannot say; she was, for I have gone to church with her; I know nothing about his religion; cannot form a belief about it; I suppose he must be a catholic by being in the French service, but do not know.

I have heard of lord Doneraile; heard Mr. Hay speak of him.

Q. Did you ever hear lord Doneraile intended to pay his addresses to lady Anglesea before she was lady Anglesea?

I know nothing about it.

When lady Anglesea went out of town I do not know whether the child was left behind or not. I did not see the child at major Carrington's; I did ask for the child but did not see him then; but I saw the child a little before at my house; Miss Mary Salkeld brought the child to see me; this child was introduced to me as lord Altham; I did not see this child often afterwards; I saw him more than once or twice; a little before it was carried to Ireland; he might be about 3 or 4.

I do not remember Mrs. Hay had a house in Bond-street; I do remember she had a carriage as I have heard, but did not see it; at that time she lived in King-street, I think it was in lodgings. I cannot tell where Mr. Hay was then, nor whether he was in London then. Did not hear Mrs. Hay talk of her keeping a coach; I do not know but have heard of her having a carriage. I did hear of her having been arrested, and her young sister, something about the father.

Q. Do not you believe that?

I do. Because she, Mrs. Hay, has told me so, but I know nothing of it.

Q. Did you hear that those two sisters took up goods at mercers shops?

I did not hear such a thing, It was a linen draper that arrested them, but it was through the father; I know not how much the demand was for.

Q. What

Q. What could provoke the father to that ?
was he a good father ?

I believe he was not a very good father,
nor a very good husband, as I have heard.

Q. Did he turn away the daughters as well
as his wife ?

I cannot tell, but have heard he did ; I
did not know what was the cause of separa-
tion between Mr. Salkeld and his wife.

Q. Then what reason have you to call him
a cruel husband ?

Because he kept a mistress in the house if
you will have it ; Mrs. Hay never told me
the reason of her father's arresting her ; I do
not know whether Mr. Hay was in London
then, but believe he was, believe I have
heard so.

I have had but two husbands, the next will
be the third.

I have heard Mr. Salkeld's word would go
for thirty thousand pounds, I have heard that
often in London. If his wife would have staid
in the house when he kept a mistress she would
not have had my spirit if she did ; I never
heard a word against her or any of her family.
I cannot account for this arrest, if I could I
would.

I never did see Mr. Gold before or after
that ceremony, for I went into the country
to Herefordshire, and saw none of them ; I
did not ask whether he had any benefice, for
I was better brought up than to be so imper-
tinent ; I believe he was a clergyman because
my lord said so ; he was at the table, and said
grace as all chaplains do ; he had not a prayer
book in his pocket, but a bell in the room
was rung, and my lord ordered the man to
bring up the prayer book ; it was my lord
rung and not the clergyman.

Q. Was it that these ladies were offended
at the treatment of their mother that they
went away ?

I have heard that they were not treated
well themselves, by or on account of that
mistress ; that is only as Mr. and Mrs. Hay
told me, that that was, the reason that the
wife and daughters were both thrown off by
the father, and because the grandmother re-
ceived them.

I have seen the writing of Mr. Hay, and
have seen him write.

A letter shewn to the witness.

Oh ! dear, that is not his hand ; I am
sure I have several letters of his in my house.
That is not at all like his hand.

Another letter shewn.

I can not take on me to say that it is his
hand.

Q. Look on the name ; is that like it ?

I cannot take on me,

Another letter. No. 2.

That is not like his hand. But I do not
know indeed ?

Another letter.

I do not take that to be Mr. Hay's hand.
I do not think any of them his hand.

I have seen lady Anglesea very often after
lord Anglesea went to Ireland ; I cannot tell
where she went to live.

Q. Where did she lodge when you saw
her ?

In a street by Sackville-street, out of Pic-
cadilly, facing St. James's church ; a house
with two posts before the door ; a kind of
porch ; I think it was Vine-street. I think
lord Anglesea was in England once after ; I
cannot tell whether he saw her after, for I
went into Herefordshire, and was there a con-
siderable time.

Q. When did you first hear of the death
of lord Anglesey ?

I cannot tell how long ago ; but saw it in
the news-papers. I never could hear of lord
Altham ; but his aunt Hay has told me, and
lamented that she could never hear any thing
of him.

Q. Have you seen him ?

Yes ; I saw him about two hours ago ; but
I never saw him from that time, 'till above a
month ago ; nor ever heard he was living for
these ten or a dozen years ; but I have often
heard Mr. Buntin wishing he could hear of
him. Mr. Buntin lives with Mrs. Buntin in
Queen-street, and they have a country lodg-
ing in Islington. He has no house in Lon-
don ; follows no business ; is not a captain,
but is a private gentleman. I cannot tell
whether Mr. Hay is a man of fortune, but
have heard he was of a good family in Ireland,
and was a captain abroad ; he did nothing to
get his livelihood, but lived as a gentleman.
Several Irish families lodged with me. Lord
and lady Cork, lady Freke and her daughter,
and counsellor Sibthorp. I have often asked
people about lord Altham, but they did not
know any thing about it. I happened to be
in the country when they lodged in my house.
I often

I often go to Bath. I did not know one Sparks. I never heard Mrs. Hay speak of a brazier. I inquired for Lord Altham from counsellor Carmichael: I asked before lord Anglesey died, when Mr. Carmichael was in England, but since Lord Anglesey died, I did not ask, because I thought him dead.

Major Carrington was a middle sized man, Mrs. Carrington was tall; I do not think he had red cloaths, I saw no cockade, but they called him major, he was not very young; lord Anglesey was like a country farmer, he was a middle sized man; I would not have had him if I was young, no not to be a countess.

Mrs. Hay and I continued her visits while in town, ever since our first acquaintance.

Q. Did she ever inquire from your lodgers?

I do not know, I heard her say she made all the inquiries she could.

I do not know the nurse that brought the child to my house, never saw her since; she was turned away for a sore breast in a week after, and I do not know what became of her. Another nurse was got, but I did not know her; I can tell her name, it was Fetherston; I do know what is become of her, for I believe she is here in the house.

Examined by the Lords.

Q. Do you know in what parish in London this child was born?

I do not know; but it was in Bolton-row.

At the time of the invitation to lord Anglesey's, I had no particular knowledge of the purpose, and was greatly surprized at what I saw.

I am a protestant; I believe it was a clergyman, but cannot take on me to tell his dress; he was in black or dark grey, something of that it was, such a dress as I, as a stranger, should have imagined him a clergyman.

I did not like lord Anglesey, he was a clumsy man, he did not take my fancy; I did not like his person, nor did I much like the character I heard of him, it was a not a character agreeable to me.

Third witness, examined by Mr. Wallace.

Elinor Fetherston called.

I remember Richard late earl of Anglesey; first knew him in May, 1743, was recommended to him in the way of a wet nurse,

to nurse one Richard Annesley, his child by his lady the countess of Anglesey.

Q. Who was that lady?

She that was styled as Ann Salkeld; the child might be turned of five weeks when committed to my care: he had a former nurse, who was discharged on account of a sore breast. I was hired by the late earl of Anglesey his own self, at 20 l. a year, four guineas, or a silk gown. This child was delivered into my care by lord Anglesey's own hands.

Q. In what manner did lord Anglesey treat this child, while under your care?

As his son, and as his only son; it was nursed like a child of a nobleman at his age, in long white dimity mantles, and very rich laced cap and laced neckcloth, which was the fashion at that time. This child continued about fourteen months under my direction and management. It was in lord Anglesey's own house in Bolton-row, and from thence we removed to Mill-hill, and still continued in his house.

The child was taken ill while under my care; a servant was sent for an apothecary in the neighbourhood, whom lord Anglesey did not approve of, nor think had sufficient judgment; and he ordered the six horses to be put to his landau, and went to London for doctor Berry, who came in the night to attend the child.

I delivered the child to Mr. and Mrs. Carrington, by directions of lord Anglesey, I believe he was then in Ireland. I believe that child remained there 'till 1746, 'till lord Anglesey was summoned over to the trial of the rebel Lords, and then lord Anglesey took him to Ireland. I have since made inquiry after him; the only likely person, I knew, was Mr. Carrington while living, but he never could give me any account of him. I never had seen any of his mother's relations from the time I left him with Mr. Carrington, which was in July, 1744. I did inquire from the Shelburne family, but could hear no account, could hear of nobody as could tell me of one that went by the name of lord Altham, or Richard Annesley, for those eleven years I had connections with that noble family. My husband is a carpenter, and did business for that family. I never was in this kingdom before. I received from the countess of Shelburne a recommendation: I had the care of her house at Twickenham, where she made a purchase, and was two years at the house in Bowood park.

Cross examinations

I have been in Ireland ten days. My husband is living; does still continue to work as a carpenter. I am in no way of life; I am in no way of life at present, but to live by the industry of my husband. I never had another husband; have been married 30 years, to the second of March old stile. I have all this time lived on the industry of my husband, and brought up a great family. An acquaintance of mine recommended me to lord Anglesey; an upholsterer, a landlord of mine, who, upon my having said I should like to undertake a nursing, came and told me he would recommend me to an extraordinary good place, for the son and heir of the first nobleman in England or Ireland; that upholsterer's name was John Fleming, he does business for his nephew in Soho-square. I never nursed for another person. The first nurse was gone when the child was delivered to me; I never saw her or knew her name; there was a woman present at the time, the house-keeper and her mother, and the housemaid, and lady Anglesey, but lord Anglesey himself gave me the child; he said the child had no rest all night from a bad breast, and desired me to give it suck before the bargain, which I did, and he said it was his son and heir; and I believe he might call him Richard; it was he made the bargain, not lady Anglesey. The child was taken ill, it might be a month or five weeks after; I don't remember lady Anglesey said any thing then but to give me a strict charge to take care of the child.

We were at Bolton-row about 12 days; from thence to Mill-hill, about ten miles from London; we staid there till January, 1744. It was in May, 1743, the child was put into my hands, it was by the old stile; it was January, 1743-4, old stile, that is the month of January following, about a month or five weeks at Mill-hill, before the child was taken ill; he had the red-gum, had caught cold, which had gone in and had like to throw him into convulsions. Lord Anglesey then first sent to an apothecary, named Moss, at Barnet; I cannot say how far, but it might be five or six miles. I cannot punctually tell whether lord Anglesey waited for Moss before he put the horses to.

Q. What interval of time between both? I do not know there was one hour. Dr. Berry lived in the Strand in London. Those six horses and the coach were lord Anglesey's

own. I do not remember in what month this was, it must be in June, because it was the twelfth of May I went to Mill-hill. I cannot say, at what hour lord Anglesey went; but it was about dusk, when he went away; he returned about ten or eleven o'clock, brought Dr. Berry with him, who remained that night and most part of the next day, till the child was something in a fair way of recovery. The apothecary made his appearance about six o'clock in the evening; I believe, he came, before lord Anglesey left Mill-hill, but cannot be punctual; lord Anglesey doubted his judgment, and went for the doctor himself; this Moss had a very good character, but I never knew him before. He is not now living, has been dead above twenty years; I believe no body now carries on his business; I do not know what is become of the doctor. From my leaving the service I know nothing of the family; I believe, the doctor was an Irish man, Barry was his name; he did prescribe for the child as for lord Altham. The apothecary left the house about ten o'clock; I am not positive, whether he was gone before Dr. Barry came or not. I did not know any of the family of Salkeld, when I first went to lord Anglesey's family, but knew Mrs. Salkeld, mother of lady Anglesey; have seen captain and Mrs. Hay at lord Anglesey's; never saw her at Mill-hill, but believe I saw her once at Bolton-row, while the child was in my care; the grandmother did come to Mill-hill, but I never saw Mrs. Hay to inquire for the child, after I saw her at Bolton-row.

I never heard, in what way of life Mr. Salkeld was; I never had curiosity to inquire, of what family this child was by the mother's side, nor of what family lady Anglesey was; while this child was in my care, no relation of lord Anglesey's side came to visit him, nor of my lady's but Mrs. Salkeld. In February Mrs. Salkeld took lady Anglesea to Bloomsbury square with me and the child. Lord Anglesey was in Ireland, where he went in August, 1743; from that time till January following none of lady Anglesey's family, except her mother, came to see her to Mill-hill; Mrs. Hay never did in that time. I do not find, there was any company kept at all; for after lord Anglesey went to Ireland, she lived vastly retired. Before lord Anglesey went to Ireland, there were no visits either paid or received during that time. I did not see any visits paid to lord Anglesey by persons of fashion; lord Anglesey had company, but what

what they were, I do not know. My young lord was introduced into all company, and so was its mother, whether there were ladies or not; lord Anglesey would often send for the child himself, and take it. He did not return till 1746, when he was summoned.

Q. Did you often call to see this child in the mean time?

I went into the country; but in 1746, having some little business to London, I went to Mr. Carrington to inquire for the child, lord Altham, and he told me, Lord Anglesey had sent for the child, and wanted to see him; and had sent by his nephew captain Green, and wanted to see him, for my lord was come over to England: and I called on Mr. Connor, who transacted business for lord Anglesey, and saw to my surprize the child there, with a maid who was to take him over to Ireland. I saw the child there: from my delivering of the child and going into the country, might be about two months: once in that time, about ten or eleven days, I called at Mr. Carrington's, and Mrs. Carrington desired me not to see the child, because it had fretted so much after me, and would know me again, and I only saw it thro' the window: the child knew me to be sure perfectly well, when I left him; did not know me in 1746, when I saw him; I saw him thro' the window, but did not touch him; and then did not see him till 1746 at Mr. Connor's, which was the second time I saw him.

It was in 1744, that I was desired not to touch the child: I came to London on Monday, and went out of town on Wednesday. I did inquire for lady Anglesey of Mrs. Carrington, but did not go to see her, for I had not time. I returned to Hertfordshire, but came to London in 1749. Then I enquired for Lady Anglesey; Mrs. Carrington told me, she had been dead some time. I did not see one Cavenagh nor lord Anglesey at that time.

Soon after my return to the country I read it in the news, that lord Anglesey had gone to Ireland.

I did not know the family of Salkeld at the time of my being in the family; I believe, Mrs Salkeld did not live with her husband: I never heard, what was the occasion of it.

I have seen captain Hay, not at lord Anglesey's, but at Bloomsbury.

I did not know Ann Rooks or Ann Glover; there was a person called miss Nancy, a na-

tural daughter of lord Anglesey, who was at Mill-hill about a week. I do not know a person of the name of Miss Simpson; did know one called Miss Annesley. Three young ladies were sent from Ireland, while I was there, the eldest named Dorothea, and was called Miss Annesley; the second Carolina; the youngest Elizabeth: they were there two months while I was there I am sure; they might be more, but cannot be certain. They lived in the house with lady Anglesey; I suppose, they dined at table with her; they did not dine with me. Miss Nanny dined at table with lord and lady Anglesey; she was gone, before lord Anglesey went. I did not observe, whether they called her lady Anglesey; believe they did; know nothing to the contrary. She was on good terms with lady Anglesey; I will not be punctual, whether I might hear them call her so, but believe they did, because there was a very good decency amongst them most of the time. I never heard any of the family address her by any other name than of lady Anglesey.

They remained at Mill-hill some time after lady Anglesey left it.

I have heard of lord and lady Haversham, but never had knowledge of her; heard she was sister of lord Anglesey: neither of them came to visit lady Anglesey; I believe, they never did come to visit her, or lord Altham.

The child was taken ill in June, some time in 1743. Lord Anglesey took the coach and six to Ireland; left a one horse chaise with her. From Bolton-row she went to Bloomsbury-square; but after lord Anglesey went to Ireland, staid at Mill-hill. Mr. Carrington hired a footman to attend her, as soon as lord Anglesey went, or I don't know but before; it was very soon after, and by my lord's desire. I cannot tell, what servants there was, for I was constantly in the nursery, and never gave the child to a footman; I cannot recollect any of them: I think, there was a coachman, postillion, and there was a running foot-man, I am sure of that; a gentleman, and butler, and two footmen more. It was but a small house at Mill-hill.

In 1749 I returned to London, I was told, she was dead. I inquired for the child, and heard he was in Ireland with my lord, I inquired at Mr. Carrington's. I heard of my lord's death in the news, and had great curiosity to enquire, who was lord Anglesey; and I supposed, Richard was dead, when I heard Arthur was.

I never

I never saw any of the Salkelds; Mr. Carrington told me, he was not dead about eight years ago, it might be.

Q. Did you immediately after seeing an account of the death of lord Anglesey inquire, whether this child was dead?

I was then at Bow-wood in Wiltshire, in young lord Shelburne's family, when I heard of the death. I did not ask lord or lady Shelburne, never made so free, but I did ask of the servants, because they were Irish. I never told them, that I had nursed lord Altham, till the night before I was to go to Ireland.

The week after the coronation I went to lord Shelburne's and my husband to do his business and clerk of his works, and I was hired at 20l. a year to take care of his house during the absence of the family. I quitted it, when it was fit for the reception of the family. I remained in the house two years: three years at the park: no wages at the Park: the house is in the park: the lodge not quite a mile from the house. During those three years I had sometimes intercourse with the domesticks of lord and lady Shelburne. I never had been servant in any family before. During those five years I had no body to inquire of for this child: I never had any account, tho' I was got into an Irish family, altho' I have mentioned it.

I have heard of Camolin-park; did not hear in what county it lay. I did ask Mr. Carrington, where this child's estate lay, but he could give me no account; he could not, or would not, or did not.

I saw Mrs. Hay at Bolton-row, but never at Mill-hill; never heard of her being arrested. Saw her sister Mary at Bloomsbury at her mother's.

After those five years, in 1766, I returned to London; I remained but a short time there, for I went to Twickenham, and staid about three years; afterwards about two years we were at Fulham, I and my husband. During the time at those two places I came to town, and went to Mrs. Dubois, Miss Annesley as was; she gave me very little account, but said he lived on some estate his father left him in the county of Wexford. I called him my young Lord; this was while we were at Fulham. It was a great while before she said any thing to me of her knowing, but she believed he lived in the county of Wexford. I believe she might call him plain Dick, or Master Dicky, but I inquired for my young Lord. I cannot say but I was surprized to hear my young Lord treated so

familiarly, but did not express resentment to her, and desire her to explain herself.

I did not make any subsequent inquiry; this inquiry was made in 1771, to the best of my remembrance.

I never had seen him since 1746 'till within these three weeks.

I have been about a fortnight in Ireland; about nine days: he, himself, first applied to me to give this evidence; he made that application about a fortnight ago; it was about five days before I came to Ireland; no application was made to me to give evidence in this cause till that; he did not tell me, who informed him, I could give information, but he thought, as I was the nurse, that suckled him, I might be able to give some account.

My wages at Twickenham were at ten pounds a year, to take care of my lady's furniture, and to have the place proper for her reception. My own industry would not have kept me; I got no wages at Fulham, for then my husband was doing a house for a gentleman, and we rented a house of our own.

I hope, I am in lady Shelburne's confidence; never told her, that I nursed that boy, till the Saturday before my coming to Ireland, and I called on her to know, if she had any commands, and she gave me a letter to her agent here.

I heard, Miss Annesley was married to a Mr. Dubois; I knew it by a servant, that had lived in the family of the earl of Carrick; that was the way, I came to know of her being married, and in London.

Mr. Carrington has been dead some years, I cannot say how many.

All the knowledge, I had of Mrs. Hay, was while in lord Anglesey's family; we came over together; she tells me, that she never could make out what was become of him.

I do not know, what information Mr. Carrington would have given Mrs. Hay; Mr. Carrington did give me that information, it might be eight years ago. I cannot tell.

Cross examined on the part of John, by Mr. Kelly.

I never heard of a lady Juliana Donovan, but believe I did hear of a woman of that name, and that she had a child by lord Anglesey; I did not hear she was his wife, nor was she so considered; I did not hear of her at all till the Miss Annesley's came over; I have heard of her at that time, but never before,

fore, nor except from them; never heard lord Anglesey talk of her. She was not considered as his wife at the time of the family at Mill-hill.

Cross examined on the part of lord Valentia;
by Mr. Prime Serjeant.

I have heard of the title being in dispute. I did not know which way to come at my child. I did not acquaint lord or lady Shelburne with this transaction; I might mention this story to many, but not of consequence. Cannot recollect the name of any person to whom I mentioned it.

Examined by the Lords.

Q. How are you sure, this young gentleman is the identical child, you nursed for lord Anglesey?

I can have no reason to think to the contrary. This is the identical child, lord An-

glesey brought over in 1746; and the identical child I nursed in 1743; there is a likeness in the features, but I have no particular marks; but there is a something of a sourness in his countenance, which I observed in him when a child.

I did not see the prescription as for lord Altham, but Dr. Barry did call him lord Altham.

Council.

The petitioner Richard is so situated, as to be obliged to rest his case here; but submits it to be considered, that it is not above five weeks, since he lodged his petition, and has since the order of reference issued summons to witnesses into the county of Wexford.

Adjourned to Monday.

Die Luna; 4 May, 1772.

Lord RANELAGH in the chair.

Council called in.

An order made; That the witnesses should not be suffered to hear each others testimonies.

Elinor Fetherston called again.

I Came to nurse the petitioner Richard when about five weeks old; he was christened before that time; I was not present; there was no chaplain of my lord's in the house: Bolton-row is in St. George's or St. James's parish, it is behind Berkly-square, I know nothing of the baptism.

I believe, I omitted one thing in my examination the other day. In about a week or eight days before lord Anglesey came to Ireland in 1743, the bell was rung, and I was ordered by a footman to bring the child to the parlour; he was then asleep in the cradle; and I said, if they would stay, I would bring him down; then two gentlemen came up to the nursery with lord Anglesey, and my lord said to them, this is my son and heir, say you saw him.

Cross examined to this particular.

I did not hear the names of these gentlemen, one of them was dressed in white and silver, and I think in a sash; the other was a short fattish gentleman, dressed in olive colour cloaths quite plain.

Q. How came you to make such particular observation?

Because I looked very hard at them. Lady Anglesey was then coming into the nursery. He, that was dressed in olive colour cloaths, lord Anglesey said, was the captain of the vessel, that was to take his papers over to Ireland: I did not enquire the name of either; no other gentleman came into the nursery; the reason of their coming was, because the

E

child

child was a sleep. The child was shewn to all company. I believe, it was the Saturday se'night before my lord went away. My lord had no chaplain. I have seen a clergyman visit my lord, but none kept in the house after I was there.

Q. Did you hear in what church this child was baptized?

I heard he was baptized in my lord's dining room in Bolton-row, but never heard who the clergyman was.

The case stated by Mr. Prime Serjeant, for Lord Valentia.

MR. PRIME SERJEANT.

My Lords,

IF this subject was now to be considered for the first time, the case of lord Valentia would lie in the narrowest compass: I should be content to say, that he is legitimate son of the last lord; and that the marriage of his father and mother was in 1741; but, as many claims have arisen, and several and discordant objections have been made, it will be necessary, in order fully to state his case, to state it with a view to those several claims and objections.

Richard, the father of the present lord Valentia, was born in 1694. On the 25th of January 1715, soon after he attained his age of 21, he married Ann Prust in the parish church of Northam near Biddeford in Devonshire. The marriage was entered in the register of that parish immediately after. She was an heiress, and intitled to a considerable fortune in land and money. Richard was then younger brother, and in the army. Soon after the marriage he took her to the house of his mother lady Altham in Orchard-street, Westminster, where she was received as an acquisition by the family, having a better fortune than he was intitled to. He and his wife resided there for some time with his mother, and his sister Elizabeth, afterwards married to lord Haverham. They afterwards removed, and all resided together in a house taken by him in Petty France, Westminster. He and his wife returned to Biddeford, cohabited there for some time as man and wife; removed from thence to this kingdom, and lived together in Wexford, Ross, and other parts of Ireland; and in all places she was publicly received as his wife, and was so considered by all persons.

In 1727 by the death of Arthur, lord Altham, Richard became lord Altham; from

which time she was called by that title till 37, when Richard became earl of Anglesey on the death of earl Arthur, and from thence she was constantly called lady Anglesey. Lord and lady Haverham were well acquainted with this lady, kept up a constant correspondence with her; and lord Haverham, as a proof of his regard, invited her to live with him, which was prevented by her death. They heard with concern of an illicit intercourse, which he carried on with Ann Simpson. They would never see her, or any of her family, and never considered her as his wife, or her children as legitimate. Richard and his first wife separated in 25. He afterwards lived for some years with Mrs. Simpson, whom he turned off in March or April 41; but it appears by an acknowledgment in writing, signed by her in December 26, that she was fully apprized, that Richard was a married man previous to and at the time his intercourse commenced with her, and that his wife was then living: by this writing she covenanted never to prosecute him on that account; and it is there mentioned, that she had sworn to the observation of it.

On the death of Arthur earl of Anglesey Richard became earl, and entered into the possession of the family estates under the will and codicils of earl James, the elder brother of Arthur. Richard was disturbed in the possession by Charles Annesley, who claimed a considerable part of those estates under the same will and codicils. There was a compromise, and articles were executed between them in 1737, by which one third of the Irish estates was agreed to be settled on Charles for life; remainder to his first and every other son in tail male, with a remainder in tail to earl Richard; remainder to the heirs of Charles; and two thirds were agreed to be settled upon earl Richard for life, remainder to his first and every son in tail, remainder in like manner to Charles Annesley, and to his first and every other son, with a remainder to the heirs of earl Richard. Soon after this agreement earl Richard thought it unequal, and refused to carry it into execution.

This gave occasion to two bills in chancery in Easter term 1737; one by Charles to carry the agreement into execution; the other by earl Richard to set it aside. On the 28th of February 1740 Charles obtained a decree with costs, which was affirmed by the lords of Great Britain on the 10th of March 1741; and in 42, a sequestration for the non-performance of it issued against Richard's two thirds of the Irish estates.

Under

Under the sequestration Charles was intitled to receive the whole rents and profits of the earl's two thirds, to pay himself the rents and profits of his one third from 1737, and the costs of the suits. The earl therefore, was entirely in the power of Charles for his very subsistence, who, on the other hand, being the person next in succession to the honours, and to the whole Irish estate, upon the death of earl Richard without sons, was justly apprehensive of giving his noble kinsman any offence, that might have provoked him to marry: but, if the marriage of Richard was known, Charles would have made use of his sequestration without lenity or restraint.

Lord Anglesey's embarrassments did not end here.

Francis Annesley, then an English barrister of eminence, set up a claim to a great part of the estate, and in 1738 filed his bill in England to establish it. In the beginning of the year 1741 James Annesley assumed the title of Anglesey, and claimed the whole estate, alledging that he was intitled to the honours and estates of the family as the legitimate son of Arthur, formerly lord Altham, who was the eldest brother of earl Richard. No suit was instituted by him till some time after the marriage: but one Daniel McKercher, a name well known to many of your lordships, had composed the novel of James Landy, which was then ready for the press, tho' not yet published; the mine was not then sprung, but the materials were prepared, and the train was laid, which had afterwards nearly buried in ruins the noble earl, his fortune, his reputation, and posterity. A jury of the most respectable commoners in Ireland had for a while realized the delusion, and the publick voice accorded with the verdict: a striking instance to caution future times against a hasty confidence in the most deliberate decisions of the most respected tribunals.

Those different claims, and the many expensive suits, which they occasioned in England and Ireland, ruined the credit of this noble man; he was forced to court the assistance of his relations, some of whom, particularly Charles Annesley, joined him in raising large sums of money to defend his estates and honours. By a letter of Richard's to one Mr. Ianns, dated 22 January 1742, he complains of his distresses, expresses his apprehensions of being oppressed by one of his kinsmen, but if so, would leave him and the pretender to deal; and directs his furniture,

and stock to be sold, and his timber to be cut.

The verdict obtained by James was for the Meath estate; and having brought an ejectment for the Wexford estate, lord Anglesey filed a bill in the court of chancery in this kingdom for an injunction, which he obtained in the year 1750. This gave him the first prospect of any ground to rest upon; but it was not till the year 1752, that the claims of James were generally considered as groundless; and lord Anglesey was then at liberty to act like other men.

I have stated those facts connectedly to shew the earl's distressed and dependent situation during this period; and as a clue to lead through the evidence from 1741 to 1752. On the 12th of August 1741 Ann Prust, late countess of Anglesey, died, and was buried at Monkley, a village near Biddeford in Devonshire. Lord Anglesey took out letters of administration to her from the archdeacon's court at Barnstable. He received the account of her death at Little Bray, a seat of his in the county of Dublin. He was then setting out for Wales to set his estate there, for which place he sailed about the 20th of August 1741 with Shalcroft Ashe his attorney, John Ianns, who also transacted business for him, and the Rev. Mr. Lawrence Neil his chaplain. He left Ashe, and Ianns in Wales with a letter of attorney to set his lands, and returned to Ireland with Neil. They landed at Ross about the 7th of September 1741, and from thence immediately set out together for Camolin-park, his lordship's principal seat.

Neil was a clergyman of good reputation, a man of morals, piety, and literature, and tho' no more than a curate, was distinguished as a reader, eminent as a preacher, and much esteemed by his parishioners for the strict and regular performance of the duties of his function. To the goodness of this clergyman's character (tho' now attempted to be impeached) gentlemen of unquestionable probity have given the fullest testimony, and some of the witnesses against lord Valentia have heretofore established his credit.

Miss Juliana Donovan, then about the age of seventeen, resided in the town of Camolin near his lordship's seat. She was of an ancient and respectable family in that county, both by father and mother, the elder branches of which have considerable estates. Her Father, who was a younger brother, was a merchant in Wexford, where he failed, and died in 1740. He left his family in an humble

1773
1741
32
17
22

ble situation ; but nature had given Juliana more than a coronet : She was exquisitely handsome ; her beauty, youth, and innocence, and the dawn of an excellent understanding, attracted the observation, and engaged the affections, of the noble earl. He was then forty-eight years old, and was extremely solicitous to have a son to inherit his honours and estates. On the death of his wife he proposed marriage to her, which he had before promised. The ceremony was performed on the fifteenth of September in the year 1741 at Camolin-park by Mr. Lawrence Neil, in the presence of Nixon Donovan, her brother, and Charles Kavanagh, his lordship's domestic steward, who was a man, in whom he much confided. The earl laid Juliana, Neil, and the witnesses under the strictest engagements not to make the marriage known, 'till such time as he should think fit ; having been apprehensive that Charles Annesley, when he saw a probability, that his succession was to be prevented, might have made the most rigorous use of his sequestration, and refused his assistance to defend the earl against the attack of James Annesley, and the other suits, in which he was engaged. Immediately after the ceremony Neil wrote and signed a certificate of the marriage in the following words.

" This is to certify, that I joined in the
 " holy state of matrimony the right honour-
 " able Richard earl of Anglesey to Juliana
 " Donovan, spinster, according to the ru-
 " brick of the Church of England, and the
 " form of common prayer set forth for that
 " purpose. Witness my hand and seal this
 " 15th day of September 1741."

Law. Neill.

" Witness,
 " Charles Kavanagh,
 " Nixon Donovan.

To which he put his seal. It was witnessed by Donovan and Kavanagh, and Neil handed it over to lord Anglesey, who some time that day gave it to Juliana, who kept it carefully from thence in different places, frequently in the robings of her gown, and never produced it 'till the eighth of October 1752, and from thence she had it in her possession 'till February 1762, when by order of the ecclesiastical court of it was deposited there.

Nixon Donovan had gone very young into the army, and returned to see his friends in

September 1741. He was a fine young fellow ; lord Anglesey took a great liking to him, invited him to live with his lordship, and he died at his lordship's house in Dublin on the 25th of November 1741. The hand writing of Nixon Donovan will be proved by two witnesses of unimpeached credit ; and, if this certificate was witnessed by him, it must have existed two or three years before the birth of the noble viscount, and could not have been fabricated to impose an heir on this noble family. The hand writing of Charles Kavanagh will be proved by several witnesses, and by comparing it with his writing to several receipts unquestionably signed by him, some of which were not before produced.

There were several children of this marriage ; four are now living, the present lord, who was born on the 27th of July 1744, and three daughters. Notwithstanding the endeavours of the earl to conceal the marriage it was suspected by many.

The difference between his conduct to lady Anglesey and his treatment of Mrs. Simpson convinced men of discernment, that their connection was of a different nature : He behaved to lady Anglesey with affection, tenderness, and respect ; gave her the command of his servants and equipage, and committed to her care the management of his domestick affairs. The suspicions of their marriage gained strength, and became more general after the death of Charles Annesley in the latter end of the year 1746, from which time the secret opened by degrees, 'till at length it was publicly declared in summer 1752.

During this period the earl communicated the secret to such of his friends, as he was most intimate with, and in whom he could most confide ; and acknowledged the present lord as his legitimate son, expressed the greatest fondness and affection for him, and frequently declared, that he was to succeed to his honours and estates.

He communicated his marriage upon various occasions and at different times to several persons of rank, fortune, and credit ; to Luke Masterson, Esq; the late lord viscount Loftus, Mathew Talbot, Esq; Mr. Fitzgerald his council, Mr. Butler his attorney, to Mr. Ianns, and Mr. Devereux.

Mr. Masterson's estate joined the earl's ; he visited him for many years, and took it for granted, that they were married. Before the year 1749 the earl for the first time acknowledged it to him, and he has often before the
 year

year 1752 heard him call her his wife, and lady. In 1751 he mentioned it to lord Loftus, and told him, that he had been married for several years to lady Anglesey, but was prevented for family reasons from making it publick. Of this lord Loftus made an affidavit, which was laid before the attorney general of Ireland; he was afterwards a witness to lord Anglesey's will, declaring the legitimacy of his children, and providing for them accordingly.

The communication to Mr. Talbot was in the same year: It was by accident, and arose from a very natural circumstance. The earl had received his letters, and read one of them with a good deal of emotion; Mr. Talbot said, he hoped there was no bad news; the earl threw him the letter, which was from Mr. Annesley of Ballyfax, the father of the petitioner, and contained a request, that he would contribute to the education of his son, who was likely to inherit part of his lordship's honours. The earl called it an impertinent letter, and said, "I will disappoint you all, for I have an heir myself, and a lawful one, which I will make him know in due time." Afterwards in the same year he called in Arthur to Mr. Talbot, and assured him in the most solemn manner, that he was his lawful son born in wedlock.

In April 1752 he sent for Mr. Fitzgerald his family council, and gave him instructions for his will: He talked of his marriage, which he had mentioned to him frequently before, and, on Mr. Fitzgerald's expressing some apprehensions of ill consequences from the concealment the earl answered, that, if it had been known in the life of Charles Annesley, he would not have left him bread to eat; and this gentleman observed, that the secret was opening by degrees from the death of Charles Annesley in 1746, till it was published in 1752.

At the same time, in April 1752, lord Anglesey communicated the marriage to Mr. Butler; but he had suspected it before from an incident, which, tho' it comes by way of objection to lord Valentia, is strongly in his favour. Mr. Butler was at Camolin-park in the month of September 1750; Mr. Francis Annesley of Ballyfax, the petitioner's father, was then there, and some conversation having arisen between lord Anglesey and Mr. Annesley about Ballyfax, his lordship wished to have the place, as it was near the Curragh, and Mr. Annesley offered to give up the house and demesne to him for his life, for the mo-

ney he owed him on his bond, which amounted to 720l. The earl agreed to the proposal, and Butler prepared the deed from Mr. Annesley; but the bond having been taken by the earl, payable to the countess by the name of Juliana Donovan, tho' entirely without her knowledge, Mr. Annesley insisted upon getting a receipt from her upon the bond. Lord Anglesey went to her to have the receipt signed, but she peremptorily refused; his lordship returned to the company, and sent James to her, who had no better success: My lord applied again to her, but in vain; at last James went to her a second time, and, having told her that her lord was in a violent passion on account of her refusal, and that Ballyfax was of much more value than the bond, she fell into a flood of tears, and said, "It is not the value of the bond," and then signed in great agitation and distress. Mr. Butler was present, when she signed the receipt, and heard her mutter to herself, without thinking she was overheard, "severe treatment," or words to that effect. The impression those circumstances made on Mr. Butler, and which they must have made upon the mind of every man of discernment, was, that they were certainly married. This transaction furnishes strong circumstances of a concealed marriage; there could have been no other reason for her repeated refusals (for it was not the value of the bond) and no reason for concealing the cause of her reluctance and distress, but that the marriage was to be a secret. It was plainly the struggle of a good mind, determined at any hazard not to disclose the secret of the marriage, but endeavouring to avoid any act, that could at any time afterwards be used in disaffirmance of it. After the receipt was signed, which was on the back of the bond, Mr. Annesley called Mr. Butler to the door, and, holding the bond in his hand, told him, he would rather have that receipt signed Juliana Donovan than the value of the bond; for that he suspected, she was married, or would claim a marriage, and that the receipt would be evidence against her. Strong evidence from Mr. Annesley himself of the reputation of a marriage at that time, and that he suspected, the reputation was well founded. Mr. Fitzgerald prepared the draft of a will, agreeable to the instructions, which he had received from lord Anglesey, and sent it to Butler to be ingrossed, who ingrossed three parts, and in May 1752 sent them to his lordship. By this draft she is styled his wife Juliana countess of Anglesey,

glesey, and a jointure of 1000*l.* yearly is provided for her during her widowhood, and his estates are limited to the present lord for his life, with remainders to his sons successively in tail male, subject to provisions for his three daughters by his wife Juliana.

The intention to settle his affairs, and to provide for his wife and children, naturally led him to reflect on the situation of his family. Charles Kavanagh the last surviving witness to the certificate, had died in April 1751. The deaths of the two witnesses, and the advanced age of Neil, who was then growing infirm, induced the earl to think of recognizing his first marriage by a second celebration, previous to which the former was to be publicly announced. It is probable, that he was desirous to have Neil's declaration of the truth of this certificate solemnly and publicly made, and perhaps wished to put his lady into such a situation, that she might be a disinterested and unsuspected witness, to bear in future times a decisive attestation in support of the honours and property of his posterity; and it may well be supposed, that motives of delicacy, and a desire to remove every doubt and suspicion as to his wife, might have been one of his inducements to this measure. He sent invitations to several gentlemen of the neighbourhood to dine with him at Camolin-park on the 8th of October 1752; to Mr. Masterfon, Howard Kyan, Esq; Mr. Devereux, and several other gentlemen of honour and probity. When they came, they were told, they were invited to be witnesses to his marriage. Some of them answered, they apprehended he had been before married to lady Anglesey: The earl replied, that it was true, but, as the witnesses were all dead, except the clergyman, he would be married again. Neil was then at the park, and the earl called upon him to perform the ceremony. He said, there was no occasion, that he married them several years since, and had given a certificate of it, which he desired to see, and lady Anglesey produced. It was read aloud, and afterwards perused and closely examined by several of the gentlemen present, some of whom were well acquainted with the hand writing of Charles Kavanagh. Neil then solemnly declared, that he had married them on the day, the certificate bore date, that he had signed it immediately after the ceremony, and that the body of it was his hand writing; he still insisted, that there was no occasion for a second celebration; but the earl with warmth

said, he was determined it should be. They were accordingly married, and the following certificate of the second ceremony, of lord Anglesey's acknowledgement of the former marriage, and of lady Anglesey's producing the certificate of it was drawn by Ianns, and signed by several of the gentlemen then present.

" We the undersigned persons were pre-
" sent this 8th day of October 1752, when
" the Right honourable Richard earl of An-
" glesey acknowledged he had intermarried
" with Juliana Donovan countess of Angle-
" sey on the 15th day of September 1741,
" and at the same time the said countess of
" Anglesey produced the certificate of said
" marriage in our presence; and he, the said
" Richard earl of Anglesey, declared he was
" determined to have the said marriage cere-
" mony performed over again to prevent
" any future disputes in his lordship's family,
" as most of the witnesses, that were present
" at that marriage, are since dead; and we
" accordingly saw his lordship married over
" again this present day above mentioned.
" Witness our hands, Luke Masterfon.
" Howard Kyan. Thomas Troy. J. Strin-
" ger. James Whyte. Walter Devereux.
" John Ianns. Mary Troy. Mary Maker-
" nan."

This second ceremony must be taken with all its concomitant circumstances, and therefore cannot by implication be considered as an act inconsistent with the former, when it is considered, that it was celebrated for the express purpose of calling upon the same priest in the face of the congregation to attest and publish the former marriage.

Such a declaration from a clergyman upon so solemn an occasion is as strong in *foro conscientiae*, as if he had been examined upon oath, which would have put an end to the cause: and it cannot be supposed, that any man of sense would have considered such a declaration less solemn than an attestation upon oath. Neil had kept the secret as long as it was necessary, but in 1751 mentioned it to his brother, and in summer 1752 to Simon Kavanagh of Rock-savage in the county of Carlow, Esq; a gentleman whose integrity will not be questioned.

The transaction of the 8th of October 1752 was of great notoriety. Neil lived for eight years after, not having died 'till the 28th of September 1760; and no attempt by any

any of the family to call this matter in question, or to put the earl to the proof of the marriage, or certificate of 1741, during the life of Neil.

From this time to his death he lived publicly with her as his wife. She was universally considered, visited, and received as such, and he constantly to his last hour asserted the former marriage, and the legitimacy of his children by Juliana.

He afterwards levied fines, and suffered recoveries of his estates, and made a will in 1754, by which he devised all his estates, subject to a jointure for lady Anglesey, and to portions for his three daughters by her, whom he calls ladies, to his son Arthur by the title of Lord Annesley.

About two years before his death he made his last will, dated 7th of April 1759, attested by the late lord viscount Loftus, and two other witnesses, in which he gave Juliana, by the stile of Juliana countess of Anglesey his wife, 1000l. yearly, payable out of all his real estates in Great Britain and Ireland, in bar of Dower; and reciting that since his marriage with her he had several children by her, of which three daughters and one son were then only living; lady Richarda, lady Juliana, and lady Catherine, and Arthur Annesley, otherwise called lord Annesley: He gave his daughter Richarda 4000l. and to his daughters Juliana and Catherine 3500l. each, payable at twenty-one or marriage with consent of the mother, and charged the same on all his real estates. He devised to his wife and three other trustees all his estates in trust to sell the woods, and to apply the surplus rent for payment of his debts, and to pay 500l. yearly for the maintenance and education of his son 'till his age of twenty-one; then the whole to his son for life, and with remainders to his sons in tail male successively, remainder to any other son that he should have by Juliana in tail male, remainder to her three daughters in tail, with several remainders over; and he gives his son powers to charge 2000l. yearly for a jointure, and 20000l. for younger children.

And reciting that before his marriage with his dear wife countess Juliana he had several natural children by different women, whilst he lived separate from his first wife Mrs. Ann Pruit, afterwards countess of Anglesey, viz amongst others by Mrs. Ann Simpson Dorothea Annesley, his eldest daughter, and two others named Caroline and Elizabeth: He gave to Ann Simpson 10l. and to the said Dorothea,

by the name and description of his natural daughter Dorothea, then wife or reputed wife of one Dubois a fidler, five shillings and no more, to Caroline 100l. and to Elizabeth 50l. a year during her life.

He bequeathed 1000l. to the claimant Richard under the description of his natural son, and devised all his personal estate to his dear wife, Juliana, exempt from payment of his debts and legacies, and made her sole executrix.

During the latter months of his life, when he was in a very languishing condition, he kept a resident domestic chaplain, Mr. James Edkens, was very regular in devotion, had frequent prayers in his family, at which he constantly attended, and fervently assisted, and at this awful period, when he knew he was hastening to that tribunal, where the secrets of all hearts are disclosed, he was uniform in asserting the marriage in 1741, and the legitimacy of his children by Juliana.

He died on the 14th of February, 1761; in 1762 Mr. John Annesley, one of the claimants, presented his petition to the earl of Halifax, then lord lieutenant of this kingdom, claiming the titles of viscount Valentia, and baron Mount Norris. The present noble lord by lady Anglesey his mother and guardian preferred a cross petition. Both were referred to the attorney and solicitor general, who were attended by council and agents, several affidavits on both sides were laid before them; and after an examination for between three and four years they reported on the 21st of September, 1765, that Arthur had proved the marriage of Richard, late earl of Anglesey, with Juliana his mother on the 15th September, 1741, by the best evidence the nature of the case would admit of, and that the honours of Valentia and Mount Norris were then legally vested in the said Arthur as son and heir male of the body of said Richard.

In consequence of this report your noble viscount in 1765, when he had just attained his age of 21, was called to parliament by writ of summons as viscount Valentia and baron Mount Norris, and sat and voted during that session in the late parliament, and during this session in the present.

At the end of the session 1765 his lordship went to England, and petitioned his Majesty for a writ of summons to call him to the parliament of Great Britain as earl of Anglesey and baron Annesley.

His

His Majesty was pleased to refer this petition, and the report of the attorney and solicitor general of Ireland, to the attorney general of England, who, having taken the report and the proofs annexed to it into consideration, reported in favour of issuing the writ.

After all those proceedings Mrs. Dorothea Dubois in behalf of herself, and the other daughters of Mrs. Simpson, preferred a petition to his Majesty, alledging contrary to truth, that Mr. Annesley might, if he thought proper, have laid stronger evidence of the illegitimacy before the attorney and solicitor general of Ireland; and praying that no writ of summons should issue till a suit in the ecclesiastical court, in which their mother's marriage with earl Richard was agitated, was determined.

His Majesty was pleased to refer this petition to Mr. attorney general of England, with directions to consider his former report, and to give his opinion on such original evidence as should be laid before him.

Mr. attorney made a second report, recapitulating the whole evidence on both sides, and discussing and deciding upon every question in lord Valentia's favour. He reported his opinion, that Arthur was the legitimate son of the late earl, and as such intitled to the English honours: and that there was no reasonable ground to suspend the enjoyment of his seat, till a suit in the ecclesiastical court between other persons should be determined, which, he observed, was carried on in such a manner as to leave it uncertain, when or whether it should ever be brought to a decision.

His majesty was afterwards pleased to refer lord Valentia's claim to the English honours to the house of peers of Great Britain, and, I acknowledge, a majority of the thirteen lords, who then attended, was pleased, upon a question whether the claimant had made out his title to the English honours, to resolve the same in the negative.

The characters of the witnesses could not be known in Great Britain; and the objection there made, and upon which their lordships are said to have determined, namely, that the signature of Charles Kavanagh was a forgery, was not pretended during the long contest before his majesty's law servants in this kingdom. The objections before them implied the contrary: It having been alledged that Kavanagh was a party to the imposture, and had forged the name of Nixon Donovan after his death. This, and the

alleged marriage with Mrs. Simpson, and a pretence that lord Anglesey was not at Camolin park in September 41, were the questions agitated in this kingdom. The only witness to this pretended forgery, produced in England, was Elizabeth Smalley, who will appear to your lordships most unquestionably to have been a perjured witness. Kavanagh was addicted to dram drinking, and wrote very differently at different times; a fact, which was probably not known in England. His lordship's cause laboured under unusual disadvantages. The lights of the law shone different ways; the first law lord gave no opinion, not having heard all the evidence; another learned lord was absent by sickness; the two great men, who voted, voted on different sides; a noble lord, who has for many years employed one of the greatest capacities, that ever adorned Westminster Hall, in discussing testimony, and examining the weight of evidence, declared that, if he was the single judge, he would determine for the claimant; another noble lord of the greatest abilities was of a different opinion; but both those lords agreed in the highest eulogiums on the testimony, the candour, consistency, clearness, and dignified deportment of lady Anglesey.

The weight of the parol evidence was allowed to have been clearly in favour of lord Valentia, and similitude of handwriting is uncertain and fallacious evidence, and seems not to be of weight, when put into the scale against positive proof of a probable fact supported by a great variety of circumstances.

Is a man's hand writing to be more consistent and uniform than the man himself? Is it never to vary? are years, infirmities, excess, hurry, agitation of body, or mind, without mentioning the place, the attitude, the materials for writing, not to be taken into consideration? Nothing varies more than the writing of some men at different times; and Kavanagh will appear to be one of those men. If this was a forgery, is it a conjecture within the compass of probability, that sufficient pains should not have been taken to deceive by the counterfeit, at least all those, who were not well acquainted with the hand writing of the man, especially when this wicked and dangerous art is known not to be difficult either in the attainment or practice of it.

Mr. Annesley, one of the petitioners, was probably himself acquainted with the hand writing of Charles Kavanagh, and several of

his

*Lord Mansfield's
premise
the letters
from A.
Mansfield
signed to
his Lord
ship page
18. of letters
1.*

*The decision
was in 1771.*

his witnesses certainly were; yet he never pretended in all the proceedings in Ireland; that the name Charles Kavanagh was forged; nor did he object to lord Valentia's taking his seat in consequence of the report of the attorney and solicitor general of Ireland. His acquiescence for six years could only arise from a thorough conviction of the legitimacy of the noble viscount.

I have stated the case of his lordship, so far as it relates to the petition of Mr. Annesley of Ballyfax.

As to the claim of Richard Annesley, his petition was not referred to your lordships till the day of last, and therefore it is impossible for the noble lord to be prepared against it, except by the proof of his own title. His lordship is placed between two fires; each of his adversaries can lead the witnesses of the other against him: this is a great tho' a necessary disadvantage, under which his lordship labours. This young man is the natural son of the late earl by one Ann Salkeld, whom he kept in London. Richard was brought over by his father in the year 46, and was constantly treated by him as his natural son. He ran away from school in the year 59, and went to Dublin, where he continued in several low situations; he was extricated out of those difficulties by the kindness of lady Anglesea, but she could never afterwards prevail upon the earl to see him.

After the death of the late lord she behaved with great affection to him; and it will appear, that this ungrateful adventurer, who now so very unjustly complains of her ladyship, has by his letters to her during the course of several years acknowledged to have received the greatest obligations from her.

He has been often in London, and in other parts of England, at different times, within those five or six years, and particularly was in London in May 1770, and knew of the whole proceedings before the lords. He proposed to make an affidavit in favour of lord Valentia, relative to his title to the honours now in question, and has been for many years well acquainted with all the transactions of this family.

He has done many repeated acts in affirmance of lord Valentia's title, some of them after the decision by the lords of Great Britain, particularly one on the 24th of January 1772, pending the petition of Mr. Annesley of Ballyfax, and after Richard's witnesses swear he had notice of his pretended title;

his resentment on account of the refusal of another lease has given your lordships the trouble of his petition.

He has also done several acts in disaffirmance of his own title. He received from time to time the interest of the legacy of 1000*l.* given to him as a natural son; and on the 23d of November 1771 executed a release in full for such part of that legacy, as then remained due: and has within these few months written a letter to lady Haverham, styling himself the illegitimate son of the earl of Anglesey.

Stephen Hay will appear to your lordships to have been a most notorious gambler, of an infamous character, and to have had no other means of subsistence, but by that honourable profession, and the profligate practice of introducing gentlemen to young ladies; a favour which he did to lord Anglesey with Ann Salkeld, and for which he was paid. And this will appear by a letter under his own hand, stating this girl as lord Anglesey's mistress. This circumstance will account for Mrs. Buntin's swearing, that this letter was not his hand writing. Lady Haverham will prove, that Ann Salkeld was kept by lord Anglesey in London; and that lord Haverham for that reason would not suffer her to go to her brother's house. She was called Miss Nancy, and upon lord Anglesey's leaving England in the year 43 was sent to Mill-hill with four of his natural children, the three daughters by Simpton, and another called Ann Glover.

Mrs. Hay, otherwise Buntin, will appear to be a proper partner for the bed and conversation of the worthy Mr. Hay, and as great a sharper as her husband. After her marriage with Hay she projected a singular scheme for the purpose of raising money. She put herself and her sister Mary in mourning, as they pretended, for the death of a relation; set up a coach, in which they drove to the shops of different tradesmen, and took up goods to a large amount: the scheme was; that an execution should be taken out against her husband in the name of a pretended creditor, and the goods sold under it. But the success of this scheme was defeated by accident. One of the many gentlemen of this ladies acquaintance in London, happening to pass by, saluted her; the tradesman knew the gentleman; and having learned from him the character and course of life of this woman, had her arrested.

Lady Haverham, and Miss Glover, now Mrs. Brooke, both reside in London; but,

as Richard's petition has been so lately preferred, their attendance cannot be had at this day: but, if necessary, we hope time will be given for their coming over, tho' we flatter ourselves there will be no occasion.

The mother of this man, or any of the family, tho' now said to be considerable, never made any claim of a marriage; and the present adventurer not only acquiesced for eleven years during the various litigations upon this subject, but has by repeated acts expressly affirmed the noble lord's legitimacy, and his own illegitimacy.

I have now done with stating the case of lord Valentia. Permit me to request your lordship's indulgence to say from myself, what I am persuaded, his lordship would not permit me to mention from him.

The irregularities of the father had in his life-time nearly overwhelmed his fortune, his honours, and his reputation. But, we hope, the innocent inheritor of his dignities and estates will not suffer by indiscretions and misconducts, from which his own nature and character are totally exempt.

The first witness called was John Roberts,

Die Martis, 5 May, 1772.

Lord RANELAGH in the chair.

Council called in.

Second witness lady Anglesey.

Her evidence objected to, as being interested.

But the council for Richard Annesley gave up the objection to her competency, saying, they were satisfied, if it goes to her credit.

Lady Anglesey examined.

I Became first acquainted with lord Anglesey in 1740; was married to him the 15th of September 1741.

Q. Was the ceremony of marriage repeated at any other time?

A. It was. I believe in October 1752. The first marriage was at Camolin Park, lord Anglesey's seat.

Q. By what clergyman?

A. By Mr. Neil, Laurence Neil.

Q. Were any other persons present at it?

as there was not time to examine lady Anglesey.

John Roberts. The papers, I have in my hands, are a copy of a register of the marriage of Richard Annesley to Ann Prust, taken out of the registry books of the parish of Northham in Devonshire, and a copy of the registry of her burial at Monkley in Devonshire, and a copy of letters of administration out of the court of Barnstable. I examined each of them; they are all true copies; I compared them letter by letter, and word for word.

The copy of the registry of the burial, and of the administration, was objected to.

The copy of the register of Northham parish, of the marriage in 1715, was read; and a copy of the registry of burials in Monkley parish, the 13th of August 1741, was read. The letters of administration were not proved.

Adjourned 'till to-morrow.

A brother of mine, and a Mr. Kavanagh. Nixon Donovan and Charles Kavanagh. Kavanagh was, from the first time I saw him 'till his death in the situation of a steward. I heard he was bred an attorney. Nixon Donovan was at that time in the army.

Q. Was any paper signed on that occasion?
A. There was.

The witness having before said she was extremely ill, and had a violent head-ach, begged leave to retire; which was allowed.

Third

Third witness, Luke Masterfon called.

My first acquaintance with Richard, late earl of Anglesey, was soon after he came into possession of his estate in the county of Wexford. Sometime, I believe, in the year 1737, my acquaintance continued very closely some years after that to his death.

Q. When did you become more intimately acquainted with him?

I had lived out of the county from 1737 to 1748 mostly; and from 1748 I was in his neighbourhood till his death. Lived about four miles from him.

Q. Did you visit at his house after 1748?

I was frequently there from 1748 to the time of his death. I cannot be very positive, when I first saw lady Anglesey, but think it was about the year 1750 or 1751.

Q. When you first saw her, in what light was she considered?

About the time I first saw her, it began to be whispered in the country, sometime before that, that she was married to lord Anglesey.

Q. Was there any declaration of a marriage at that time, or not?

It was said by his friends, there was a marriage; and very few of his friends doubted it: those, who were in opposition to his interest, would not consider him as married at that time.

Q. What was your own opinion of the matter, had you any cause to form any opinion one way or the other?

I had no cause, farther than that I was biased in favour of lord Anglesey, that there was a marriage.

Q. In what manner was she treated by him at the time you saw her?

He treated her with as much affection and respect, when I did see her, as if she had been his lady, his wife.

Q. Was you at Camolin, in 1752, at any time, and in what month?

I can recollect a particular month: it was on my return from the assizes of Wexford, in October 1752, that I accidentally called to make a visit to lord Anglesey, whose house was not much out of my way home.

Q. Did you ever see him in company with any other woman called his wife? Did you ever see Mrs. Simpson?

I did. I believe, I had seen them together three or four times, when they lived together.

Q. Was it before or after the time, that you was in company with lady Anglesey?

A long time before the present lady Anglesey was in that country.

Q. Did he treat Mrs. Simpson with the same respect and attention, as he treated lady Anglesey?

Quite the reverse.

Q. Have you any particular reason, as to his treatment of Mrs. Simpson?

One time in particular; I can't call to mind the year or month; but I happened to be at Camolin, at dinner, and Mrs. Simpson, then styled lady Anglesey, came to table, with her eyes were much blood shot. One Mr. Ianns, a gentleman who was often at Camolin, sat near me, and I asked him the occasion of that appearance; he told me, lord Anglesey the night before had given her a very good drubbing. They were both treated certainly in a different manner.

Q. In October 1752, when you was at Camolin, after the assizes, do you remember any thing remarkable, that then happened there?

Lord Anglesey was that day married.

Give an account of it.

On my coming there, that day, from the assizes, soon after I had seen lord Anglesey, he asked me, whether I had seen Mr. Ianns; I said, I thought I had seen him coming cross the hall; he desired, I would go and speak to him, and he would tell me the cause of desiring me to dine there that day: I did so; and saw him engaged with people of business. I returned, and told my lord, I had not spoke to Mr. Ianns, tho' I had seen him. He then said, he would let me know the occasion of his writing for me; and that he desired, that I and Mr. Kyan, his two most particular friends in the country, should be present at a ceremony to be performed that day. I could not help smiling at his mention of a marriage, and told him that it was generally believed in the country, and I almost had a conviction, that he was married, and that it appeared very odd to me, that there should be a second marriage: he said, it was very true; but I am directed by my lawyers to have a second marriage solemnized, and I am determined it shall be this day.

Q. Was any clergyman there.

There was; who, I understood, was brought there on that occasion; his name was Neil; I don't know his christian name. I have heard, upon recollection, that it was Laurence; whether it was so, or not, I cannot say.

Q. Did

Q. Did he say any thing upon lord Anglesey's talking of a repetition of the ceremony?

Yes. Before he went upon the ceremony, when lord and lady Anglesey and many others were in the room, he asked for a certificate of a marriage, he had given before.

Q. What was done upon that?

Lord Anglesey said, he believed lady Anglesey had it. It was produced by lady Anglesey; she was in the room, when the certificate was asked for by Mr. Neil.

Q. Did she produce it without going out of the room?

She went up for it, and brought it down, to the best of my memory. Neil looked at the certificate, and read it, and afterwards acknowledged the whole to be his hand writing. I think, he did not read it out, for it was immediately handed about to shew to those, who were appointed by lord Anglesey, witnesses of that marriage.

Q. Did he say, whether he had married them any time before?

He declared, he had married them at the time that certificate was drawn, according to the date of it.

Q. Do you mean that lady Anglesey, that was here just now?

Yes, yes; that was she, that was present, and produced the certificate. I read the certificate. After the marriage was over, it was shewn to and read by those, who were desired to be witnesses to the marriage. It was not handed about, 'till the ceremony of marriage was over. Some had a curiosity to see it, before the ceremony had begun: I do not think, I did. A ceremony of marriage was performed that day by Neil between lord and lady Anglesey. There was a certificate afterwards drawn, and signed by those who lord Anglesey desired to be witnesses, in particular Mr. Kyan and me, who he desired to be the first. I cannot call to mind, who were present, and signed the certificate, there were a great many present. So far as I recollect, there was Howard Kyan, Mr. James Whyte of Peppard's-castle, then lord Anglesey's agent, Watt Devereux, John Stringer, John Ianns, and, I believe, lady Anglesey's two brothers; I think they were there, one named Richard, the other Cornelius Donovan.

Q. Who drew this certificate, you signed?

I think it was Mr. Ianns, I cannot be very positive: I know Ianns's hand writing, and if I saw that certificate, I could know if it was that he signed.

Q. When Mr. Neil was applied to by lord Anglesey, what did he say?

He made an objection, and said, it was quite unnecessary, and was surprized how such a matter could be thought of; and lord Anglesey in a hasty mood said, he did not send for him to talk in that manner, he sent for him to marry him. But I did that before, said he. No matter for that, you must do it now, said my lord Anglesey. He told me in the beginning, that it was in conformity to his lawyer's advice that he was to marry again. Mr. Ianns, after he wrote the certificate, left it on the table, and the witnesses were desired by lord Anglesey particularly to go and read the certificate before they signed it.

Q. Did lord Anglesey mention any accident, since the former marriage, that induced him to have a second ceremony performed?

He mentioned, that the witnesses to the first certificate were all dead, and that was the principal reason why his lawyers desired him to go into a second marriage. He did not name those lawyers who advised.

A certificate shewn to the witness.

I take this to be the very same certificate, that was produced by lady Anglesey that day: It was signed with the very same names I see there. I think, I put the initial letters of my name on the back of it. I believe I saw this paper twice since the marriage; first in October 1752, and upon an occasion I was on here, it was produced to me.

Q. When did you put the initial letters of your name to it?

I was called on to make an affidavit to the fact of what I am now on, before a master in chancery. I cannot recollect upon what occasion that was, but I was sent for from the country to make an affidavit of the marriage, and did so, for I came up on no other account. I cannot recollect the year, but it was in winter not many years ago. I do not think I made more than one affidavit.

The other certificate of 1752 shewn to the witness.

My name is signed to that certificate, Kyan, Thomas Troy, Walter Devereux, John Stringer, White, John Ianns. It was signed by me the day it bears date.

Q. Were all those present, whose names you read there?

I have no recollection of Thomas Troy, but have no doubt he was: It was signed immediately after the ceremony was performed, before

before any of us went out of the room. I know, I did not go out after the marriage, till I had signed it. I have no idea, who Troy was; have heard there was such a man in the country, but had no acquaintance with him. Kyan, Devereux, Stringer, Whyte, and Ianns are dead.

I perfectly recollect the several matters in that certificate, and do say the contents thereof are true.

I knew Charles Kavanagh by sight only, don't think I ever exchanged a word with him, only as a domestick in lord Anglesey's affairs; as far as I could hear, he had the character of a very upright honest man, and no one could impeach him unless as to being very fond of a cup. He is dead.

I have an estate in the county of Wexford, which bounds lord Anglesey's estate on one side very close, within two miles of his demesne, some part of it a mile.

Before that day in October 1752 I never had conversation with lord Anglesey, as I recollect, relative to lady Anglesey. I have been for some time indisposed, and my memory and recollection very indifferent. I heard him call her his lady and wife very often before October 1752: I cannot particularly say, when I first heard him call her so, but believe it was a year or two before that in 1752.

I believe, Kavanagh was dead at the time of the second marriage, as I was told; it was so looked upon in the country. Nixon Donovan was also said to be dead. I have no acquaintance with Mr. John Annesley, except that he called on me at my house; I cannot say precisely the time, but it was soon after lord Anglesey's death; he called on me to know the certainty of the marriage, that I was witness to, which I informed him of directly, gave him an account of what passed that day; I did tell him what Mr. Neil said 1752, as to the former marriage, and every particular circumstance that happened on the 8th of October 1752, on lord Anglesey's second marriage.

Q. Was any other person with Mr. John Annesley to make the inquiry?

There was one Mr. Meheux, whom I did not know, but am told he is an attorney.

I did know Stephen Hay from the age of about eighteen; I believe he was a county of Wexford gentleman; knew him before he went to France, knew him in London in November 1745; I cannot say, what way of life he followed, but believe he was in some distress; he appeared to me to be so:

he came to my lodging one morning, and told me, he had met a disappointment, and would be extremely obliged to me, if I would buy a diamond ring, he had on his finger; I said, I had not more money, than would just carry me back to Ireland. He desired a few guineas, ten or a dozen pieces for a few days; as he said that he would give a bargain of his ring, I desired him to go to Mr. Talbot, who would buy his ring: and I understood afterwards from Mr. Talbot, that he had bought it, and that he had got a great bargain of it. I heard, that he was under the denomination of a commissioned officer, a cadet in the French service. But his relations told me

Being desired to speak of his own knowledge, the witness said,

As to my own knowledge, I cannot say whether he had a commission, but I am confident, if he had, it was a very low one. He was reputed to be married at that time, when I last saw him in 1745. I had a regard for him and his family, and was very sorry to hear it said, he was married to a lady, that was a kept mistress of a gentleman in London, and his elder brother told me so.

I have seen Mr. Richard Annesley, that claims these honours; saw him first a good many years ago at Camolin park, about two or three years before lord Anglesey died, some few years before. Lord Anglesey died in 1761, I was in the house at the park when he died.

Q. In what light was he considered in the family?

I never heard him considered in other light but as a natural son of lord Anglesey. I did not know by what woman till very lately; but he was generally looked on as his natural son; he was called Dick; I never heard him called lord Altham.

Q. What was the usual title given to the eldest son of lord Anglesey?

Lord Annesley, as I always heard even from lord Anglesey.

I saw the present lord Valentia, when he was very young, when about ten or eleven years years old. I cannot tell, when I first saw him; I saw him before the year 1752 very often. He was treated before that time extremely well. Lord Anglesey had every necessary master for his improvement; had a private tutor for him, and I believe in every other respect treated as his lawful son. I never heard, that he had a private tutor for

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Mr.

Mr. Richard Annesley. After the marriage in 1752 lord Valentia was called lord Annesley in his father's life; in 1752 he was treated with the same care as his lawful son, and looked on by every person as such, he was called sometimes Arthur, sometimes my lord, but was not generally called so till after the marriage in 1752.

Cross examination by Mr. Kelly, John Annesley's counsel.

I was examined by the lords in Great Britain, and I swore then the same as now, as near as I can call to mind. I heard the lords did determine against lord Valentia, but was not then in England.

3 This examination being objected to, was waved.

Mr. Talbot's name was William. I believe lord Anglesey did continue his fondness for the present lady Anglesey, as far as I could ever hear, till his death. She behaved with great fondness and affection for him, that I have been witness to.

Q. Had not she a very great influence over him?

As to that I cannot possibly answer. So far as I could ever see or hear, his behaviour was very affectionate and fond of her; at the same time it was very well known in the country, that he would not be controuled by any person, but would pursue what ever he took into his head. As to her acquiring an influence, I do not know of any that she had. Lord Anglesey was very old to be sure at that time, but he was perfectly in his understanding. Lady Anglesey was not very young at that time; I cannot say what age she was of, but believe she might have been thirty four or thirty five at the time of his death; thirty five or thirty six I took her to be: I cannot say how old she was in 1752. He was very fond of his children by her.

Q. Did any of the servants call lord Valentia lord Annesley before 1752?

I believe they did; can't be positive, but believe he was called by many of the lower class of people lord Annesley before 1752; and I imagine he was called so by the servants of the family, but cannot recollect.

Q. Don't you believe, lady Anglesey was looked on as a kept mistress some time before 1752?

Certainly she was, no doubt of it.

Q. What was your opinion?

I certainly had the same opinion that other people had in the country; before I became intimately acquainted with the family, I must have had the same opinion with the people of the country. I became intimate in the family from the time of my residence, which was in 1748, and then I looked upon her otherwise.

Q. Was you very intimate with her?

I do not think I had seen her till a very little time before 1752. I had not any acquaintance with lady Anglesey till about 1748, very little acquaintance till a little before 1751: about the year 1750 or 1751 I first saw her; I first became acquainted with her then; I did not see her to speak to her till 1751; I had often dined and lay before at lord Anglesey's house.

Q. Did she ever breakfast, dine, or sup with you before the second marriage in 1752?

I do remember, I believe she did at one particular time at dinner. Tho' a great many persons were there, I believe no person is now alive, who was there that day at dinner: it was not at that dinner that I heard lord Anglesey call her lady. I do not recollect positively whether she sat at the head of the table that day, but I suppose she did. I imagine lord Anglesey did intend, she should be considered as his lady, for about the year 1750 or 1751, a considerable time before the marriage in 1752, it began to take wind that they were married, and before 1752 I did hear that many people, common tenants, and such people, had given her the title of Anglesey.

Q. Did lord Anglesey wish to keep his marriage with her secret, or to disclose it before the second marriage in 1752?

I believe in 1751 he seemed desirous it should transpire, so that the country should look on it, that there was a prior marriage. In 1751 I believe lord Anglesey wished, that it should be surmised in the country, that he had been married. He called her lady in my company upon an occasion that a servant came in, it was a servant maid, for some particular thing, I forget what, whom he desired to go to lady Anglesey and she would get it. That was about the year 1750. I did not know any other supposed lady then. That servant appeared a chambermaid.

Q. In the year 1750 then he did not mean to keep his marriage secret?

I should think not indeed. I did hear of Mrs. Simpson, and have seen her; she was many years considered countess of Anglesey.

I heard

I heard she was introduced to the castle, and to the principal people in this city as countess of Anglesey. In 1749 I had an imagination that she was married from the general turn of the opinion of the country.

Q. What particular reason had you in 1749 to imagine, she was lady Anglesey?

I could have no other foundation but my own surmise, from what I heard lord Anglesey say, that he had been married to her, and never had been married to Simpson; I believe that was in 1749; there were present at that two gentlemen, who are both dead. Lord Anglesey never told it to me but at that one time. The two gentlemen present were Laurence Esmond and John Jervais Whyte.

Q. What introduced that conversation?

It was brought about by Esmond, who was very free and intimate with lord Anglesey, and was interceding for Mrs. Simpson; and lord Anglesey had said it was in vain for any one to mention any thing of her to me, calling her by a very improper expression, for I never shall see or hear of her more. Esmond persisted notwithstanding, and he told him no, I shall never more think of her; I have now got a wife that I am determined to support and keep. I think he did mention her at that time.

Q. Was it before that, that lord Anglesey told you he was married?

It was before that.

Q. Did you ever mention in that company, that lord Anglesey had told you so before that he was married?

I did not.

Q. Did his different treatment of the two ladies give you any reason to think, he was married to one rather than the other? had you any other reason for thinking he was married to Donovan rather than Simpson?

I saw him never in temper in the presence of Simpson, nor in good humour: he was in better humour in presence of the other.

Q. Don't you believe he was actually married to Simpson?

I heard he was, can't say whether he was or not. The general opinion was, that he was married. I have heard the same thing as to his behaviour to Ann Prust; and by all accounts he did behave very ill to them both.

Q. Then what reason have you to believe he was married to a woman, because he behaved well to her? was it not more probable, he would behave well to a mistress than to a

wife, from his manner of behaving to his two wives?

I cannot say.

Q. Did you mention upon your examination before the lords in Great Britain, that lord Anglesey in 1749 told you, he was married?

I did not.

Q. Why not when you was sworn to give the best evidence for him?

I did not recollect that circumstance.

I am convinced, that it was by the advice of council, the second marriage was; and for this reason I am convinced of it. Mr. Lanns, who was very much in the confidence of lord Anglesey, had several times after told me, it was the only method he had to preserve the titles and honours of the family in this young nobleman, and that it was by the advice of lawyers that this method was taken. I believe it was by the advice of council the second marriage was had.

Q. Was not the purpose of assembling you all the day of the marriage, that some of you should be witnesses to that transaction?

Lord Anglesey desired only Mr. Kyan and me.

Q. Did the others come accidentally to dine, or were they sent for?

Lord Anglesey said, he had the greatest dependance on me and Mr. Kyan to be witnesses that day. I do not know where Mr. Neil lived at that time, never heard he had any benefice in the county of Wexford; never saw him before that day. I do not remember there was any licence produced that day. I believe Neil was in the house when I came there. The marriage was in one of the parlours; to the best of my recollection it was the parlour at the lower end; it was not the parlour where they usually dined, but in the parlour where the sash door is, I think.

Q. Did Neil know, before you all met there, that he was to marry them that day?

I believe he might have known it.

Q. Was it not preconcerted between lord Anglesey and Neil, that when lord Anglesey should ask him to marry, Neil should mention, he had married them before?

I think, and believe, it was a matter preconcerted. I cannot but think there was a preconcertion in the whole.

Q. Did not you say, Neil said, he was surprized lord Anglesey should desire it?

I did say so.

Q. Do

Q. Do you believe he was surprised at that time, tho' he said he was?

I know not what answer to make to this question.

Q. If it was a preconcerted scheme, how could he be surprised? was he surprised in truth? was it not an affectation of surprise?

It might have been so.

Q. Do not you believe it was?

I cannot take on me, to say, that it was a real surprise.

Q. Was it not also preconcerted, that Neil should call to lady Anglesey for the certificate?

I believe it might indeed.

Q. Do not you believe, she knew, she was to produce that certificate when called for it?

I do not believe that, for then she would have had it about her.

Q. Do not you believe, she left the certificate above stairs on purpose?

I believe in the same way.

Q. Was lady Anglesey long out of the room, when she went for that certificate?

She was but a little while out of the room.

Q. Had she time to rip it out of the robings of any gown?

She was about four minutes out of the room.

Q. In 1752 had not lord and lady Anglesey a doubt of being able to prove the marriage in 1741, when they had all this preparatory ceremony to the second marriage?

Lord Anglesey seemed to build totally on the certificate in 1752, that the second certificate would be establishing the first, as the marriage in 1741 was included therein.

I do not know, whether Charles Kavanagh was alive in 1752, but believe he was not. Neil has not signed the certificate in 1752.

Q. What occasion was there for preparing all that evidence, if they thought, they could support the marriage in 1741?

I mentioned before, that the witnesses thereto were all dead.

Q. Would it not have been more proper to institute a suit to establish that marriage, than to marry a second time?

I did hear, lord Anglesey was advised by his lawyers to pursue a method to establish it during Neil's life: why it was not prosecuted, I cannot say, but did hear that from very good authority.

Q. Who was the council, that gave lord Anglesey so good an advice?

Counsellor Fitzgerald told me on our road to London, that if lord Anglesey had

taken his advice, the marriage in 1741 would have been established. He was for some time his standing council and adviser, but I believe not latterly. I cannot say, whether he was before 1752. At the time he gave him the advice, he had a confidence in him. I believe, this advice, as I apprehended from Mr. Fitzgerald, was after the second marriage. I did not say the second marriage was by advice of council: I did not mention any particular lawyers, but that whoever was his council, advised him to that second marriage.

Q. Did not that proceed from some suspicion, that he could not establish the first marriage?

The witnesses to it were dead. Neil was then living. All the children by Miss Donovan were born after 1741. Lord Anglesey did in 1752 wish to establish the marriage in 1741. It was looked on as necessary that the marriage in 1752 should be performed by Neil, as the person who married them the first.

Q. Would any council advise him to marry a second time in 1752, if his council were of opinion he could establish the marriage in 1741?

Certainly council could not then have advised him. The strong presumption is, that he would not have married a second time, if he could have established the first.

Q. Do not you believe, that you and Kyan, then the intimate friends of lord Anglesey, were brought there as witnesses in order to be produced on any trial relative to the legitimacy of lord Valentia?

All, I believe, lord Anglesey could expect from Kyan and me, was, that we should be ready to attend to prove that marriage. I believe, it was on that occasion, that he did send for Kyan and me, that we might be witnesses relative to the legitimacy of lord Valentia.

Cross examination for Richard Annesley by Mr. Recorder.

I was first acquainted with lord Anglesey and introduced to him in the county of Wexford at his first coming to the country in 1737. I did not hear, Mrs. Simpson lived with him at that time in any character: I believe, I saw her at table twice or thrice. He had three daughters by that lady, I think. I first saw Mrs. Simpson, I believe, in the same year 1737, but not the first time I saw lord Anglesey. I believe, the last time I saw Mrs.

Mrs. Simpson at table was about 1738. The names of those daughters were Dorothea, Caroline, and Elizabeth. I cannot be positive, in what year he and Mrs. Simpson parted; I believe it it was about 1740; it was before 1741 I believe. I never heard she lived with lord Anglesey after the first marriage in 1741. I believe the daughters of Simpson were kept at Camolin for some time after 1741. Lord Anglesey did declare, he was not married to Simpson. Miss Donovan undoubtedly considered Simpson as a mistress.

Q. Yet she kept the three daughters in the house with her?

It was not with her inclination, I suppose. I believe, I did hear, they dined at lord Anglesey's table with the present lady Anglesey after 1741.

I saw lord Valentia before 1752. Before 1752 he was called Arthur by his father. Before 1752 lady Anglesey was stiled countess of Anglesey by some.

Q. Why then was not the title of the eldest son given to her child?

At the time the title was given to my lord, it was only by the lower people of the country: I mean before 1752.

Before the second marriage in 1752 lord Valentia was, as I heard, educated at Ross some part of the time, at another time he had a private tutor at home, at another he was with a gentleman in the neighbourhood, who was his private tutor, Mr. Joe Miller a clergyman. I cannot ascertain the time, whether he was private tutor before 1752.

I heard, Richard Annesley was at the same school with lord Valentia.

Q. Did they not lodge in the same house?

I know not for certainty; I heard, they lodged at Ross at Mr. Batts. I never heard of lord Valentia's lodging any where but at Mr. Batts. When he was in the country after 1752, he had the title of lord Annesley. I never did hear of these two young gentlemen visiting at lord Loftus's. I can't tell, when they went to, or came away from, Ross. I do not know, whether it was in 1753, or what time it was.

Q. Which of the two boys was taken home to lord Anglesey?

I do not know which.

Q. Were any of the daughters of Simpson married in lord Anglesey's house? Was not lady Caroline?

I heard, she was married to Mr. Whyte, but not where: I believe, she was married to

him, and by consent of lord Anglesey, and heard him say, he gave her her fortune.

Q. Was Whyte a gentleman of consideration in the country?

He had but very little property before he became agent to lord Anglesey. I heard he served the office of high sheriff of that county.

Q. How was she called?

Lady Caroline; and it was looked on as in the vulgar stile, that she was called in that way. I never heard Mr. Doyn's family visited her under that character. Lord Anglesey did treat her and her sisters as ladies, but, I believe not, after the marriage in 1741.

Q. Was not she married after the marriage in 1741?

I don't know the time, when she was married.

I did see Richard Annesley in the house of lord Anglesey after his marriage: Never saw him dine at the table.

I am a Roman catholic. Kyan was a protestant. Devereux a Roman catholic. Stringer I knew, he was a farmer, and had gone through different scenes of life; had set up a publick house in Eniscorthy, at another time. He was bred an attorney: I believe, he lived at Eniscorthy, or near it, which I believe is about eight miles from Camolin. I do know doctor Bartholomew Thomas: I believe, there might be an intimacy between him and lord Anglesey at the time of the second marriage. He lived about two or three miles from Camolin. I believe, there was no very great intimacy between lord Anglesey and Mr. Ram: They lived about four miles off; the Courtown family lived about seven or eight miles; Mr. Richard Donovan lived about three miles: They are said to be relations of lady Anglesey. None of those persons were present at this marriage.

Q. Who was the second certificate drawn by?

By Mr. Ianns.

Q. Why was it not drawn by Mr. Neil?

I cannot tell.

Q. Was not that certificate signed by every person present at the second marriage?

Not by every one, there were several in the hall at the time of the ceremony.

Q. Why were not the brothers of lady Anglesey called upon?

I cannot tell.

Q. Did not one of the brothers attest the former?

I

Yes.

Yes.

I was perfectly acquainted with the family of Mr. Hay; they lived about fourteen or fifteen miles from lord Anglesey. I knew Mr. Edward Hay, brother of Stephen Hay; he had a very good character, a very upright man. The station of a cadet is the lowest station in the French service, and is looked on so: Where they are gentlemen of family, that does not a bit diminish respect to them. They must be twelve months in the service, before qualified to take a commission, unless interest procured to the contrary. I have now some relations in the foreign service: It is from their situation, that I know the method they are obliged to go through, that they must be cadets, before they receive a commission.

I do know lord Valentia's family; his sister, lady Catherine, is married to Mr. John Toole, who was in the foreign service once as an *aid du camp* to a general officer, that went to Portugal some years ago.

Examined by the Lords.

Q. At the time you went to lord Anglesey, and before dinner, he communicated his intent to have the ceremony performed, did he hint any thing to you of a certificate's being to be produced?

He did not.

Q. Was there any thing in the surprize of Mr. Neil, that struck you, as if he had been before informed, of what lord Anglesey required to do, but that the farce was to be carried on before that company?

He did not seem to shew any surprize, but was very determined in the question, and asked it more than once or twice, wherefore there should be a second marriage. It had an appearance of being a premeditated thing.

Q. What appearance had the paper?

I did not observe the nature of the paper, nor of the writing, nor examine, whether it was a fresh or stale paper.

Q. Did you see every body sign the second certificate? Was it all signed at once in that room?

I believe so. Mr. Kyan and I went out together, and did not regard who signed. Mr. Ianns's name is last: I suppose he waited to see the rest execute.

Q. Was Troy there or not?

I suppose he was, but have no recollection of seeing him: Undoubtedly he must be there.

Q. When the paper was first produced, was it a clear fair paper, or did it appear folded up?

I have no recollection, what appearance it had; it was not offered to Mr. Neil to be signed, when I was present.

Q. What was lord Anglesey's principal reason for having this marriage established and known? Was it to legitimate the children born before 1752 or from any other consequence in favour of my lady?

I believe, his intent was to establish the children and my lady in possession of his estate. I do not know the council, who advised this. I do not know, whether Kavanagh was alive or not, but I suppose he was not, because it was mentioned in the other certificate, that the witnesses to the other were dead. I do not know, how long Neil lived after.

Q. Did Neil remain in the room, while the rest of the witnesses signed the certificate?

I do not know; I think, I left him behind in the room, for he was an infirm gouty man, and sat down, and I do not recollect, that he went before me. I first saw Neil in October 1752; never saw him before; never heard he had been a priest of the church of Rome: I never heard any thing bad of him.

I believe, the certificate in 1752 was in some part drawn, before I went into the room, for we were obliged to wait some minutes, till Mr. Ianns finished it, after the ceremony.

Q. If so, then is it not probable, that something passed between lord and lady Anglesey and Mr. Neil; and that it was preconcerted before you entered the room?

I believe, it was preconcerted, and that it was with the knowledge of Neil, that certificate was drawn.

The second certificate was called for to be read, but being objected to, was deferred till lady Anglesey's examination.

Q. Did you by the word Surprize, mean, what a person expresses the first time he has heard of a thing? or did you mean a reasoning upon it, that you thought there was no necessity for it; no necessity for repeating what had been done before?

Yes, I mean it in the latter sense.

Fourth witness, Edmond Cullen.

I first knew Stephen Hay in 1739, in France: He was a cadet, not an officer, in Clare's regiment. I saw him but twice in

two days I was there. I heard afterwards, that he had been turned out of that regiment, but do not recollect the cause. I know he was turned out. His general character I knew very little of. Afterwards in London in 1747 he wrote me a letter, begging I would send him five guineas, for he was in the greatest distress. He wanted to see me, but I let him know, I would not see him. In a few days Mr. William Clifton, brother of Sir Robert Clifton, came to me, and demanded a guinea from me for him, saying, he was in the greatest distress, and I gave him a guinea for him. At that time I heard in general, that he was of very bad character, but do not recollect, except in general; if I had memory to recollect, I could. I never knew

lord Gulmoy: I suppose, Mr. Clifton was going about to make a collection for him; I understood, he was in misery and distress.

Q. Did you ever hear, that Mr. Hay was a lieutenant colonel in the Prussian service?

It was impossible; people serve a great while in that country, before they come to that rank.

Cross examined.

Mr. Clifton did appear in the light and character of a gentleman; was known by every body.

Adjourned 'till to-morrow.

Die Mercurii, 6 May, 1772.

Lord RANELAGH in the chair.

Council called in.

Petition of Arthur Annesley, late of Rotterdam, and order of reference read: ordered to attend to-morrow: council for lord Valentia proceed.

Lady Anglesey called again.

Q. WAS any other person present on the 15th of September 1741 except lord Anglesey, Mr. Neil, Nixon Donovan, and Charles Kavanagh, and you?

No other was present.

Q. Was Neil then in any relation to lord Anglesey in his family?

None. I do not doubt, but he might have been his chaplain.

Q. Was Charles Kavanagh in any office?

He was in nature of a steward.

Q. Was he a person, in whom lord Anglesey had any confidence, or not?

I believe he was.

Nixon Donovan was my brother. I cannot exactly ascertain, of what age he was at that time; he might have been 18, 19, or 20; he was older than I was: I cannot well say of what age I was at that time; I might have been 16, 17, or 18; but cannot be positive, as I never saw my age registered.

Q. How long had Nixon Donovan been in this kingdom before your marriage in 1741?

He never had been out of the kingdom.

Q. How long had he been at Camolin or in that neighbourhood?

A very few days: he might have been a week or a fortnight; I cannot be positive. He was at that time in the army; came to Camolin upon a furlow.

Q. What was the reason, that the witnesses to this marriage were lord Anglesey's domestic steward and your brother?

I cannot account for it; but that my brother was a very proper person to repose such a confidence in: and that Charles Kavanagh was a steward, and one for whom he had a great regard.

Q. Was this marriage intended to be kept private or made publick?

It was intended to be kept private for a time.

Q. What was lord Anglesey's reason for wishing to keep it private?

He was very much involved in various suits with his relations; that I know to be his reason, from my own knowledge.

Q. Which of his family was he then at law with?

With captain Charles Annesley.

Q. Were

Q. Were any other suits apprehended at that time?

In the latter end of that month he was apprized of a new attack by one James Landy, as he was informed by a letter of lord Glenawly.

Q. Was captain Charles Annesley the person generally understood to be his successor in his honours, if he died without issue?

Yes; I always understood that.

Q. Was there any other suit at that time between lord Anglesey and any of his relations?

That suit did not end 'till the year 1742 or 1743; but I am not positive. That suit was commenced early upon lord Anglesey's coming to his titles and estate.

Q. At the time of the marriage, or immediately after, was any paper drawn and signed by any person, and whom?

There was a certificate drawn and signed by Mr. Neil, and a seal affixed by him: it was signed and sealed immediately after the ceremony. This certificate was witnessed by Charles Kavanagh and my brother.

Q. Did you see Kavanagh sign his name to this paper?

I did; and I saw Nixon Donovan: I did see Kavanagh, for he signed first to the best of my recollection; Nixon Donovan signed afterwards, I think; but cannot be positive. This was done by Neil, Kavanagh, and Donovan, in the presence of lord Anglesey, and at his desire.

Q. After the ceremony did lord Anglesey mention any thing to you or the witnesses, as to the keeping this marriage secret, or not?

Most certainly. This ceremony was performed in the great parlour, as we generally called it, at Camolin-Park.

Q. Where did Neil write the certificate?

Upon a table under a pier glass between two windows; it was signed and witnessed there.

Q. Was any reason assigned by lord Anglesey for desiring, they should keep this secret?

The reason, he assigned, was, that Charles Annesley would do him all the injury in his power, as he expected to be next heir, if lord Anglesey died without issue male; that was his principal reason. After this paper was signed and witnessed, it was handed to lord Anglesey; I will not be positive, whether he gave it me then or that night; but one or the other I can say with certainty. From

the 15th of September 1741 to the 8th of October 1752 no mortal had it in possession but myself.

Q. In what manner did you keep this paper?

I had it in different places at different times.

Q. Where was it generally kept?

At some particular times in the robings of a coat; not the coat I wore.

Q. Had you a particular reason for being careful of this paper?

First, I thought, if any accident happened lord Anglesey, it was the only thing to support me and my family, to convince the world how I might have been situated. This certificate was constantly in my custody or power from that time 'till 1752. I never shewed it to any mortal during this period.

Q. Lord Anglesey engaged you to promise, you would not speak of this marriage. Did you ever mention it from the day of the marriage 'till the 8th of October 1752?

I cannot say, I ever did. I might have let something fall; but never produced that certificate: nor, unless by a little slight hint, did not mention any particulars.

Q. Was the injunction of secrecy by lord Anglesey laid on you once or more?

First, the very day of the celebration of that marriage; and lord Anglesey has afterwards repeated it to me, from his situation with his relations and James Landy's affair. He mentioned it afterwards occasionally, as he found himself more pressed by difficulties.

Q. Had lord Anglesey been long at Camolin before the marriage in 1741?

I believe not many days.

Q. Where had he been immediately before?

At Wales.

Q. Did you ever hear of Ann Pruff, or Ann lady Anglesey?

I did. She died, I think, the 8th or 9th of August 1741. She was distinguished by the English lady Anglesey. I have a letter, which will ascertain the time of her death, if I may produce it tomorrow. I believe, lord Anglesey and she did not cohabit together for many years before.

Q. Before this marriage in 1741 how long had lord Anglesey mentioned marriage to you, or propose it?

At different times, and a few days before.

I saw Neil sign, and those two witnesses attest that certificate. I should know that certificate, if it is not very much defaced or broke

broke. My brother Nixon died about the 24th or 25th of November following at our house in Abby-street, Dublin. He was a very great favourite of lord Anglesey's, and one of the handsomest men in Ireland. Charles Kavanagh is dead; I cannot well tell at what time; he died in 1750 or 1751 at our house at Little-Bray: but we were then at Camolin. He was certainly dead before October 1752. Neil, I believe, is dead; I was told in 1760. I cannot tell more.

I did produce this certificate on the 8th of October 1752; from that time till February 1762 it was in my possession.

Q. What became of it then?

Mr. Mark Whyte, then our law agent, wrote to me, and desired, I would transmit it to him, as soon as it was possible. I am not positive as to the month it was sent, but there are letters from counsellor Donovan and Mark Whyte; acknowledging the receipt of it; to the best of my recollection it was in February 1762. I sent it to be laid before the attorney and solicitor general here upon the claim of Mr. Annesley of Ballysax to the Irish honours.

Q. Was this certificate sent to be lodged in any ecclesiastical court?

I cannot answer, what use Mr. Whyte made of it.

She was desired to look at the certificate.

That is the very same paper, I have described. I indorsed the initials of my name and title on the back of it, and I see them there. The body of that writing was by Mr. Neil, every bit of it, except the names of the two subscribing witnesses, and what is wrote on the back.

Council for lord Valentia desired to have the certificate read, which was objected to by Mr. Kelly, 'till the hand writing, and deaths, of the two subscribing witnesses, were proved.

The reading it was deferred 'till further evidence laid before the committee.

The examination of lady Anglesey continued.

Q. Did you and lord Anglesey after 1741 cohabit; and for what length of time?

Till lord Anglesey went to England, and after his return. He went to England the latter end of 1741; he returned some time in

1743, I think; during his absence I remained at Camolin house: after his return I cohabited with him, 'till he went to England to the tryal of the lords in 1746. He returned from that tryal in three or four months, more or less: after his return I cohabited with him 'till his death; he died the 14th of February 1761, I think.

Q. Did lord Anglesey ever think of any method of announcing or recognizing this marriage?

He spoke to me of it very often between 1741 and 1752.

Q. What did he mention on those occasions?

He was very anxious and uneasy from his situation with respect to his law suits and family affairs. He intended to have that affair made public long before, if it had not been for the situation, he was in.

Q. What affair?

His marriage with me, that I speak of in 1741.

Q. Did he determine upon any particular manner of announcing that marriage to the public?

He fixed this as a time, that he would not let it continue in the manner it was longer.

Q. At what time had he come to that determination?

He was at it for some months.

Q. Speak of the year?

1750, 1751, and 1752. In summer, the latter end of June 1748, was the first time, he said, he would make it public.

Q. After that time had he communicated this matter to any person, and to whom?

I cannot answer at this day, to what he might have said to particular persons.

Q. Was this marriage publicly declared by lord Anglesey in 1748, at the time he said he would?

I cannot say.

Q. Was the ceremony of marriage ever performed between lord Anglesey and you a second time?

It was. I believe in October 1752.

Q. How long before that had lord Anglesey determined on this second marriage?

Two or three months he had been speaking of it, and he came to a resolution at length, that he would have it at such a time.

Q. What did he do in consequence of such resolution?

The reverend Mr. Neil was in the house with us, and lord Anglesey thought proper to have some gentlemen in the neighbourhood

present on that occasion, as Charles Kavanagh and my brother were both dead; he very infirm, and Mr. Neil also.

Q. Was Neil then at Camolin park by accident, or had he been sent to for that purpose?

I cannot tell.

Q. Did lord Anglesey send about to the neighbouring gentlemen to be witnesses?

He did.

Q. Did any of them attend in consequence?

I believe there did, a Mr. Kyan, a Mr. Masterfon, a captain Troy, a Mr. Stringer, a Mr. Ianns, a Mr. Devereaux I believe, and a Mr. James Whyte; I do not recollect any other, but there might be more; there was captain Troy's wife, no other gentleman present, but some of the women servants at the door.

Q. What passed on that day; did lord Anglesey say any thing to the gentlemen; when they had met?

I understood since, that he had spoken to them differently, to one or two of them he had spoke about the affair after dinner. We had generally a good many persons at dinner on Sunday, and three or four were asked on this occasion; but I am not certain, whether it was Sunday or Monday, believe a Monday. A very little time before the second ceremony lord Anglesey spoke in general upon the occasion, these gentlemen were brought, and it being pretty late in the evening, he spoke to Mr. Neil, of what he was to do, and Mr. Neil said, he thought, there was no necessity for that, for he had done that affair before, and desired me to bring the certificate, upon which I went up stairs, and brought it down.

Q. Where did you find the certificate?

I believe at that time, I might have had it in a pocket book in a desk, and for some time before; I gave it into Mr. Neil's hand, who read it, whether publicly or to himself I will not say, and he said, this is the very paper, I gave you at such a time. Very soon after that Mr. Neil performed the ceremony again.

Q. Did lord Anglesey previous to the second celebration say any thing to the company in your hearing of the former marriage?

I believe he did; I cannot be positive to it, but it is most natural to think he did, when I was called to bring that certificate.

Q. When you produced that certificate to Mr. Neil, was it in the same condition, in which you received it on the 15th of September 1741?

Most certainly; there was not the least alteration.

Q. Was that certificate handed about to any persons then present?

I think, it was; and my reason is this, there was Mr. Stringer and Mr. Devereaux, the one bred an attorney, the other a farmer in good business, and they both said that was Charles Kavanagh's hand, and they made affidavits of it afterwards.

Q. For what purpose was you desired to bring down that certificate?

I know no other, but that Mr. Neil chose, it should be produced to shew the ceremony had been performed before.

Q. What was the reason of Neil's giving up that objection and performing the ceremony?

Lord Anglesey insisted on it to be sure; the ceremony was performed again.

Q. Was any paper signed after the second celebration?

Yes.

Q. Was it signed by any person?

I believe it was.

The paper shewn to the witness.

I believe, that paper was signed the 8th of October 1752.

Q. From 1752 did your marriage become a matter of notoriety?

It did.

Q. From 1741 to 1752 who had the care of the house at Camolin; the superintendance of it?

I had, unless when I was at other places, as we had houses at different places. When lord Anglesea went to any other of his houses in this kingdom, I went with him. From 1741 till his death I had the use of his equipage and direction of his servants; during this time before 1752 I paid the wages of the women servants; lord Anglesey generally paid the men. I was generally called Miss Donovan, while it was necessary to conceal the marriage: during this time my son, the present lord Valentia, was called master.

Q. Do you recollect a transaction relative to a bond passed by Mr. Annelley to you by your maiden name?

I did

I did not know any thing of that bond 'till some time after it was passed; I never knew it was in my name, 'till I went to lord Anglesey's desk, where I went for some paper, he wanted.

Q. Was you called on at any time to sign a receipt or discharge for the contents thereof?

I think I was.

Q. What passed on that occasion?

Mr. Annesley came to Camolin, I cannot ascertain the time, but it was after he passed his bond to lord Anglesey, for what sum I cannot recollect, he wanted to take up this bond, and I believe had not the money; he was going to live at Galway, and to get up his bond, which I believe he did not care should stand out against him, he gave lord Anglesey the use of Ballyfax for lord Anglesey's life, for a pepper corn a year I think, and have heard it said; lord Anglesey thereupon came, and desired, I should put my name on the back of a parchment or paper, I know not which now, and I refused to do it; he said I must, it does not signify; I would not do it: he sent Mr. Ianns to me, and I told him, I would not do it; and Ianns told me, that he requested, I should sign this paper; I will not said I; he said it would not signify: and lord Anglesey is in a great passion; and I said I will not do it; and lord Anglesey came in again, and I would not do it. Lord Anglesey first said, it does not signify, if you signed a hundred of them, you are under coverture, I think, was the phrase he used to me. Mr. Ianns came in and said, there would be no living in the house, lord Anglesey was in such a passion: upon which I signed it.

Q. Did you use any particular expression when prevailed on to sign it;

Mr. Ianns said, when he came in the second time, there would be no living in the house, if I did not; and that this lease of Ballyfax was a much more valuable thing than this money; and I told him, it is not for the value of the bond or the money, I am so distressed; but I did not tell Mr. Ianns the cause of my reluctance. The cause of my reluctance was, that I was afraid, it was a thing, would appear on record against me and my family hereafter, especially as it was to one of the Mr. Annesley's it was given; that Mr. Annesley was uncle to the present Mr. Annesley of Ballyfax, as I have been told.

Q. Did Mr. Annesley express any satisfaction at getting that paper.

I believe, there is a gentleman will prove his satisfaction at getting it.

Q. Why did you not communicate to Ianns the cause of your reluctance?

Because I was bound up to secrecy.

Q. What year was this?

I cannot tell, indeed, whether it was 1749, or 1750, or 1751. I should rather imagine it was 1750.

From the publick marriage in 1752 my eldest son was called lord Annesley, and constantly so 'till lord Anglesey's death certainly. He was born in 1744, I think.

Q. Was lord Anglesey very affectionate to him from 1744 to 1752, or not?

He was very much so. He is the son of lord Anglesey by me.

Q. Was there any particular attention to his education before 1752?

He was but a small boy before 1752. From 1752 he went to a school, and removed to another school from that, and then had a tutor got for him. He had two or three tutors, Mr. Jo. Miller, who is a parson, a curate in or about Wexford. Lord Anglesey removed the present lord Valentia to Rossmaneege, to Mr. Lewis Miller, the brother of the other; that was our parish church.

From 1752 I was visited by the people of the neighbourhood, the principal families, the present lady Fly, and lord Loftus's family, and lord Arran's family, Mr. and Mrs. Tottenham.

I know Richard Annesley, one of the claimants, first knew him in the latter end of 1746, I believe.

Q. In what manner was he treated by lord Anglesey, as a legitimate or illegitimate child?

Illegitimate. I never heard or considered, that he was legitimate 'till within a few weeks; if there was a necessity, I am sure, I will get a thousand to prove it.

Q. What account did lord Anglesey give at this time in 1746.

I had heard of this boy before, that he had by a woman, whose family was in great disrepute in London, of bad fame and well known. The three sisters Salkelds well known by persons of fashion there to be of bad fame.

Q. Was Richard Annesley in London in 1770?

I beg leave, that this letter may be read; it imports something about this Richard Annesley; it is from the late lord Loftus.

Q. Was

Q. Was lord Valentia admitted free of any corporation, under any and what title?

Lord Loftus made him free of Wexfo and commissioner Tottenham free of Rofs.

The present claimant is mentioned in the letter as master Richard Annelley. I am acquainted with the hand writing of the claimant Richard.

A letter shewn to the witnesses.

This is a letter Richard Annelley wrote to me from Scotland.

Council desired it to be read to shew the petitioner's complaints of the unkindness of this Lady were not well founded, and to shew she had a kindness, and he desired a continuance of it.

The letter read, dated Glasgow the first of March 1764, directed to the countess of Anglesey at Camolin, near Gory, and signed Richard Annelley.

Q. What does the word annuity in that letter mean?

A legacy of 1000l. by lord Anglesey to Richard the son of Ann Salkeld.

Two letters from Richard Annelley directed to lady Haversham at Lincoln, no date, read.

Both these letters are Richard Annelley's hand writing I believe. Lady Haversham is lord Anglesey's sister, and resides at Lincoln.

Council. We lay it before the committee only to shew, he does say, he is the illegitimate son of lord Anglesey, and distinguishes himself from the legitimate children.

Q. Did the claimant Richard ever obtain any lease or leases from lord Anglesey?

Not to my own knowledge.

Q. Look at the name Richard Annelley, signed to that letter?

It is a letter from the same person, and, I believe, it is his hand writing; it is directed to me.

This letter read, dated the 6th of August 1764, directed to the countess of Anglesey, at Camolin-park near Gory.

Q. Was the interest of Richard's legacy paid punctually?

Very often before it became due.

Q. Did you do any acts of kindness by him?

Many compliments before he was married, and particularly since.

Q. Do you recollect, what those compliments were?

They were of use to him, tho' but trifles. When he was in distress, he applied to me for money; sometimes I charged him, sometimes not.

Q. Was this legacy paid to him, or not? Since I came to town I heard it was.

Q. Look at this paper? It is his hand writing.

Objected to, unless proved by the subscribing witness, who is now alive, named Rogers.

Council for Lord Valentia.

Rogers is brother-in-law to the claimant. Mr. Flood was present when it was signed, and attested by Rogers; it is a receipt for 1000l.

Not read.

A Lease produced.

Objected to, as being a deed, and a subscribing witness thereto.

Not read.

I cannot say, whether the claimant Richard was in London during the hearing, but he was there at the time I was there. I will not say, he was there any part of the hearing: I did see him in London; he breakfasted, dined, and supped with me, and I shewed him all the kindness in my power; and he went to Hagley to lord Littleton's with me: we went there the fourth of June 1770, with me and several others. The claimant Richard was acquainted with the proceedings from first to last.

Q. Had he ever said any thing to you as to the making an affidavit or affidavits about that business?

Yes, I think he did; he had been at Hagley with my son, and in London at the same time, I believe three or four years ago, and staid with my son two months or perhaps more, or it may be less. He came to Castle-Talbot to my house, and told me, my son's wife was ready to lye-in; and he told me, Mrs. Dubois was

was the common disturber in England about my sons affairs, and said he could make an affidavit for him, that would be of service to my lord, and said, I told him so: And why did not you, said I? He said, he did not know, but said something as if my lord did not take any notice of it. I believe this was at my own hall door, as I was going out to walk.

Q. By what name or title did the claimant Richard usually call your son?

After 1752 always lord Annesley.

Q. And after lord Anglesey's death in what stile?

As earl of Anglesey, 'till the decision in England; I do not know how he addressed him since.

Q. Look at the name, Richard Annesley, signed to that paper, is that his hand writing?

He has wrote differently at different times, and this has a great resemblance to that he wrote to lady Haverham.

Q. Look at the back?

This direction seems, as if he was disguising it: To the best of my belief the body of the letter is of his hand writing.

Council. It is only to shew, that he addressed him in 1769 by the title of Anglesey.

The letter not read.

The last time, I saw my son and this young chap together, was at lord Littleton's. I never saw him in company since the decision by the Lords.

The claimant Richard is married; I cannot tell how long.

From 1741 to 1746 lord Anglesey was rather in distressed circumstances at times, as to what came within the compass of my knowledge. He often mentioned his situation as to James Landy, as a suit that distressed him grievously, and complained, that his suits with Charles Annesley distressed him also.

Q. At what time did he begin to be extricated out of his difficulties?

After the great trial in 1743 people began to be of another opinion, to what they were before that. I think there was a verdict against lord Anglesey in 1743; the suit continued several years after. Lord Anglesey took a writ of error: That suit did not draw to a conclusion 'till 1750, then Mr. Phips was another, who attacked lord Anglesey for his whole estate in 1749 or 1750,

which was determined in favour of lord Anglesey.

That claim of James was not thought entirely over, 'till pretty near the year 1760, tho' it was dying away.

Cross examination, on the part of the petitioner John.

I cannot say, who Mr. Neil was, more than I knew him by that name; he was a clergyman of the church of England. I cannot say, but he might be chaplain to lord Anglesey. I cannot say, where he lived: He did not at all live in the house as resident, but as a visitor. I do not know, he resided in any place in our neighbourhood.

Q. Then how could he be chaplain to lord Anglesey?

I believe many noblemen have chaplains, that do not reside in the family.

I believe, he was a man of literature, and also a man of good morals. I was first married to lord Anglesey the 15th of September 1741: I can be positive to the day, for the day before was Holy Rood day, a remarkable day.

Q. How long before that did lord Anglesey propose marriage to you?

Three or four days.

Q. Were there any more than one proposal?

It was two or three times mentioned to me.

Q. Was it a week before the marriage?

I cannot say.

Q. Where was lord Anglesey, when he heard of the death of Ann Prust?

At Bray.

Q. When did you first come to Camolin-park?

I have been there very often from my childhood, but did not go there as resident, 'till lord Anglesey went to Wales, that was in August 1741; he went, I believe at that time principally on hearing his wife was dead; and another motive was, to let some lands which were out of lease. His wife died at Biddeford, I believe. Lord Anglesey did not go ashore at all, as I understood always. I did know Benjamin Annesley.

Q. Was he a particular friend of lord Anglesey?

He was son of a reduced merchant at Waterford: He has been permitted to dine at the table.

Q. Was he intimate in conversation?

L At

At some times he would be permitted to speak, at other times not; because he was a weak silly sort of man: He said, he was a relation to lord Anglesey, but lord Anglesey never considered him in that light; he looked on him as a reduced person of that name, and had him at his table, when many gentlemen were not present. I do not know, where Benjamin Annesley is now, for ought I know he is in Dublin; his former residence was in Waterford. I believe, he is in Ireland, unless gone out of it these eight or ten days, for I saw a letter from him very lately, begging charity.

Q. What was the first time, you ever saw Neil?

In August 1741.

Q. How did you know, he was a clergyman?

Because he read prayers constantly in the family.

Q. Was he beneficed any where?

I cannot say; I heard, he was curate in the county of Wicklow, but where I cannot say.

Q. How long after hearing of his wife's death did lord Anglesey go?

I believe immediately.

Q. In what room was you married?

In the great parlour at Camolin-Park; the parlour the family usually dined in. Neil wrote the whole certificate in my presence: I was standing very near him, when he wrote it.

Q. What time in 1741 did lord Anglesey set out for Wales?

As far as I can recollect, I believe about the middle of August; I cannot recollect the day, or near the day, at this distance; nor within a day, or two, or three. I believe, I was at that time on my journey to the country from Bray to the county of Wexford.

Q. What were the motives for keeping the first marriage secret?

The many law-suits in which lord Anglesey was engaged.

To the best of my recollection Charles Annesley died in February 1747, it was then called 1746: it was 1746-7.

Q. Were not lord Anglesey's difficulties at an end by his death?

It was as to that; except as to a legacy, by an agreement between lord Anglesey and him, by which he had a right to charge the estate with some thousands of pounds, which he did charge the estate with: and there could be no other dispute with him except that.

Q. What was the reason of his being in awe principally of Charles Annesley, was it not because of the sequestration?

His estate was under sequestration some time to him; but Charles Annesley might have hurt him considerably: if he thought, lord Anglesey had a son, he would have been very cool in James Landy's affair. Lord Anglesey's reason for keeping this secret from him was that affair of James Landy; and lord Anglesey stood in need of his assistance therein.

Q. Did lord Anglesey continue in apprehension as to the sequestration after Charles's death?

I cannot say that; but I remember letters from lady Levinge, that if he did not settle immediately, she must do something, and from her son. That was in agitation two years; and then lord Mulgrave attacked him for his whole estate. If Landy had succeeded, it would equally have hurt Charles Annesley; but lord Anglesey was apprehensive, that he might have made his terms, if such an affair came to his knowledge. Lord Anglesey was a little alarmed at hearing, that Daniel M'Kercher, a famous man, was seen coming out of Charles Annesley's house in Henry-street; a person came to lord Anglesey and told him so: and he was vastly apprehensive, Charles might have made terms.

Q. Did this affair remain secret?

It did, 'till about, perhaps, there might be something of it hinted in 1750. In 1752 it was much spoke of before the marriage; and I was addressed as such at table.

Q. Did you keep the secret inviolably?

I did. I cannot answer for him.

I cannot say, positively, that I did not mention it to any one.

Q. Was your mother alive at that time between 1741 and 1752?

She was. I did never mention it to her so as to make it clearly understood, that I had such a thing in my possession to support myself: but I mentioned enough to make her easy in her mind as to me; she was old. I cannot answer for any thing, lord Anglesey said or did, whether he kept it secret or not. I do not doubt, but he might have dropped some words. I have heard since his death, he has told of the marriage. I believe, he has mentioned it to some friends of his not long before the public marriage. I cannot say, who he might have mentioned it to after the marriage.

Benjamin Annesley was examined as to this before the lords; and I am persuaded, he was very much in liquor, to which he was very subject, from what he said and did there.

Q. On

Q. On whose behalf was he produced in liquor? On my son's behalf; but it was not natural to suppose, that he would have intoxicated his head of all things.

Q. Did he declare on that examination, that lord Anglesey had communicated the marriage to him so early as September 1741?

The question objected to, as he is living, might be produced, and is not.

Against the objection.

Every party has a right to the hearsay and belief of a witness; and then it cannot be rendered less authentick because it is the hearsay of a man delivered on oath on the most solemn occasion; and he was produced there on the part of lord Valentia; and as he is not produced, we are deprived of the benefit of his direct testimony; it could not be presumed, we should summon a person produced on the other side.

The objection allowed.

Q. Was Neil informed of the business he was to go about before the ceremony in 1752?

He might have been informed a day or two, or three, before, or perhaps the day before. I should rather imagine he was.

Q. At what time of the day was it performed?

In the afternoon; after dinner; I cannot tell at what hour of the day.

Q. Who were the company at that time?

Kyan, White, Stringer, Troy, Masterfon, and Mrs. Troy; I will not be particular as to the number.

Q. How were the company employed? had they been drinking?

They had been drinking a glass of wine; I imagined. I cannot say, whether I was in the room, when the ceremony was proposed. Mr. Neil answered lord Anglesey, that there was no sort of occasion for it; for that he had married him and, pointing to me, that lady in 1741. He did mention the former certificate: he said, that certificate was all his hand-writing, barring the subscribing witnesses names.

Q. What induced him to make that declaration? did any body doubt it; or call upon him?

I cannot say. He was the proper person to be sure.

Q. What reason did lord Anglesey assign for having that second marriage?

I believe, as the two subscribing witnesses were dead, and they himself and Mr. Neil; growing infirm. He said, he was advised to it.

Q. What lawyer had he principally then?

I cannot tell; he had so many in his employment first and last, that I cannot form a judgment, who advised him.

I knew counsellor Fitzgerald very well. I cannot say, that he ever gave such advice of the second marriage. But he did advise him to another method of establishing the first marriage. That advice was before the second marriage. That advice, he gave, was this: Mr. Fitzgerald was at the park for 2 or 3 days either going to or coming from the assizes; or was sent for on purpose, I don't know which; and I was sent for into a little front parlour after dinner, it was pretty near night, and Mr. Fitzgerald said, as lord Anglesey had given him instructions to make a will, that he might speak to me about what annuity, if I survived lord Anglesey, I would wish to abide by or be satisfied with; I said, I knew lord Anglesey's distressed situation, and, whatever he thought proper, I was satisfied to abide by; and Mr. Fitzgerald asked me, if I would be content with 1500l. a year; I said I would; or whatever he thought proper, tho' I knew at the same time I was intitled to 2000l. a year by articles of agreement between him and Charles Annesley.

Q. Was any licence produced at the last marriage to Neil?

No. Nor did he make any objection for want of one.

There was further discourse. I cannot tell, whether it was in 1751 or the beginning of 1752. Mr. Fitzgerald said to lord Anglesey, he was in a distressed situation, to have Mrs. Simpson and her daughter Dubois, who had come to settle in Wexford, living so immediately by us, and why did not he take proper steps to put that affair to an end. Lord Anglesey said, he would, if he knew in what manner. Mr. Fitzgerald said, he would give him this advice, that if he would separate himself from lady Anglesey for some time, he would take the advice of the best civilians in Ireland about it, and that in a very little time he would not have further trouble. Lord Anglesey answered, he would do every thing in his power to establish, what has been done in his family, and to defeat that woman, who has been my destruction, and caused all my family to turn against me, but I would do every thing besides parting with my wife, for

I cannot as I am an infirm man (he was gouty, tho' pretty stout at that time) for I have no body else to take care of me, or that would take the care she has done.

I can give no further account, unless what passed before my face.

Mr. Fitzgerald did give an opinion, that a separation was absolutely necessary, in my hearings.

Q. When lord Anglesey applied to you to execute a release to the bond, did he desire you to sign it by your maiden name?

He told me, it could not be done in any other manner, and said, it did not signify, for I was under coverture; and I would not do it; he went out and sent a gentleman again, and I would not; and the second time that gentleman came, he prevailed.

Q. At what time was the suit with Charles Annesley at an end?

I cannot tell. I believe the sequestration held longer than 1743.

Mr. Lanns did not say any thing about my being under coverture, but my lord himself. There might be letters between 1741 and 1752, to which I signed my maiden name.

I was apprehensive of it to be sure, but lord Anglesey told me, it did not signify a pin. He directed me when going to England to write sometimes with an J, and nothing else: another time to write Juliana: other times he said, it did not signify a pin how I wrote.

Q. Who was considered as next heir male of the family and to inherit the honours after the death of Charles Annesley, if lord Anglesey died without issue?

Francis Annesley of Ballysax, who died before lord Anglesey.

Cross examination for Richard Annesley

Q. Where was you born?

At Kilcloran in the county of Wexford. It was near Camolin. My mother was alive in 1740.

Q. How did she get her livelihood just before 1740?

She had a farm.

Q. Did not she sell ale for a livelihood?

I don't doubt but she might.

Q. Did she pay rent to lord Anglesey, or how much?

I cannot tell.

Q. Was she tenant to lord Anglesey?

She was.

Q. Did you at this time living with your mother assist in the several necessary offices in the family, serve the customers?

No. Tho' my father and mother were reduced in circumstances, it was very well known that my father was a gentleman, and my mother a gentlewoman; my father a man of character and of a reputable family; counsellor Donovan's.

My mother's maiden name was Nixon, and Miss Nixon now a minor of 11 or 12 years, and lives in Dublin, is grand daughter of my mother's eldest brother, and when of age will have a fortune of 1000 or 1200 a year or more. My mother was sister of Mr. George Nixon.

Q. At what time did you first go to Camolin Park house?

I was in it very often from the time I was seven years old.

Q. At what time did you go to reside?

In August 1741.

Q. Was you examined in England?

I was. Did not you swear before the lords, you was resident there from May 1741?

It may be so: but I think, the first time, I went to be entirely resident, was in August 1741.

Q. Was not you resident at Bray before that in the family, of lord Anglesey?

Yes.

Q. Did you come to his family by invitation of any of that family, or from himself?

From himself.

Q. Did you ever hear of Anne Simpson?

Very often. It was publicly reputed in that country, that lord Anglesey was married to her, and well understood at the same time that he had a wife in England. I do remember three daughters by her; the eldest, I have heard, was called lady Dorothea; the second lady Caroline, the third Elizabeth.

Q. Were not they resident under these characters some considerable time after 1741?

I Not the eldest: the other two were backwards and forwards, I cannot tell how long: they might stay a week, sometimes more, sometimes less.

Q. Did lord Anglesey's carriage attend them to church?

Not from the time I came into the family.

Caroline married White the son of James White our agent. They, that is the 2d and 3d, came to the country, and lord Anglesey put them to board at his agent's house, and they had been there but a very few months, when the eldest of these two girls and this James White's son had made up a private match, and White was very uneasy about it.

Q. Was

Q. Was not White afterwards high sheriff and by lord Anglesey's interest?

Lord Anglesey did make interest to make him sheriff to cut a little figure after the girl's marriage, and gave her a fortune of 1200*l*.

I first saw the claimant Richard in the latter end of 1746. There never was a maid servant came over with him for that purpose to take care of him; for that maid servant had lived with lord Anglesey, and he told me he would take that opportunity to bring her over, as the Irish maid servants were very indifferent. Her name was Hannah Davis, and she was housemaid to me some years, and was afterward married to a mason or slator, I don't know which; and is now dead.

Q. Was she a decent servant?

She was a mighty clean creature.

Q. When was Richard sent to Ross school from Camolin?

I cannot tell.

Q. Who was sent with him?

I think parson Lloyd. I am not positive. It was somebody from Ross. He was at the schoolmaster's house. It was Bartholomew Lloyd, who was curate of Ross, and had been schoolmaster.

I believe, lord Valentia went with him at that time.

Q. Was it not in the carriage of lord Anglesey they went there?

I do not know. They were sent both at the same time.

Q. Who was the schoolmaster?

I cannot say, whether Mills was or not; but I remember him to be schoolmaster at Ross.

Q. Did lord Anglesey keep a carriage at that time?

Yes; notwithstanding he was in embarrassed circumstances, he never was without a carriage; he had that in the worst of times. I had a carriage, when he left me in 1741. He left me a landau and 4 mares; and he brought over a chariot or coach, and 6 very beautiful bay horses.

Q. How many children had you by lord Anglesey since 1740?

Five; three now living; the eldest Ricarda born in 1742 at Camolin Park; she was christened by Mr. Raymond the clergyman of Rossminoge church.

Q. Who were the sponsors?

Mr. Derrencey stood for lord Anglesey by his desire, and my mother for lady Haversham.

Ricarda was born in February 1741-2. Lord Anglesey went to England in 1741,

and she was born the February following. I cannot say, whether it was by lady Haversham's desire the sponsors stood; it might be without her desire or knowledge. I cannot say, whether she sent presents.

Q. Do you believe, lady Haversham would have agreed to it, if she had been told of it?

I cannot tell; lord Anglesey's direction to me was as to that child, whether it was a boy or girl, it should be so. My second child was born in July 1744; that is the present sitting lord.

Q. Who were sponsors on that occasion? I cannot recollect. It was a private baptism; for as the marriage was kept secret, we could not with any propriety have people of rank. I cannot say, who they were, for I was in my room.

Q. Did not the same reason subsist? Did not you ever enquire who were the sponsors? I cannot form a belief at this distance of time.

Q. Where was he born?

At Bray.

Q. Who christened him?

Mr. Fish, then rector or curate of Bray.

Q. When was the next child born?

The July following, that is in 1745 she was christened in the room by my bed side by Mr. Neil.

Q. Who were the sponsors on that occasion?

There was no one in the room but, lord Anglesey, my mother, the nurse tender, and the nurse.

Q. Were there any sponsors?

Except it was lord Anglesey and my mother, I cannot say.

Q. Where was your last daughter born?

At Bray.

Q. Who were the sponsors at the christening?

I cannot recollect. Circumstanced as I was at that time, it could not be supposed, sponsors were to be called in without letting them know, how I was situated at that time.

I heard, one of the children was registered at Bray, which was the youngest daughter; and I never heard it, 'till I saw an affidavit of Michael Story curate of Bray, 'till I saw that affidavit made for Mr. Annesley of Ballyfax.

Q. Do you believe it?

He said it; and it is very possible, it might be true.

Q. Was lord Valentia's birth registered?

I never heard it was 'till about 6 or 7 years ago, that I heard a bustle, that some body had

infiuated, a leaf had been torn out of a book at Bray church. I never heard, one of them was registered till Mr. Annesley attacked my son for the Irish honours.

Q. In what month and year was the last child Catherine born?

In 1748 or 1749; I cannot be certain as to the year; it was one or the other. It was in June.

Q. Can you tell precisely as to the day, when lord Anglesey returned from Wales?

I cannot: it was early in September; I believe, it was rather earlier than the 9th or 10th. I believe, it was very early in September; I think it was about the 5th, 6th, 7th, or 8th. I cannot be particular as to the day.

Q. Did your mother live at Camolin after your marriage in 1741?

Yes.

Q. How long did she live there?

She came to settle and live with me at Camolin in the latter end of September or October, I cannot be positive which.

Q. How long did she remain at Camolin?

Till we went to Dublin.

Q. Did not she intermarry with some person afterwards?

Yes.

Q. Was not his name Tobin?

It was.

Q. Was not he a blacksmith?

I believe he might; that was nothing to me; I could not account for my mother's actions. She was married about 1745 or 1746.

Q. Was it not generally understood after the trial of Mary Heath for perjury, that lord Anglesey's title to the estate was established?

If your father, Mr. Recorder, was alive, he could very well vouch the contrary to that, for he was one of lord Anglesey's lawyers.

Q. What was the general opinion of the country; was it not a conclusive trial?

It could not be looked on in that light, because there were several hearings in England after that; and many witnesses examined in England on that occasion, which put lord Anglesey to great expence.

Q. Was not the expence of the trial of James Landy borne by other persons?

Charles Annesley, I presume, bore a third of the expence.

Q. How far is Ballymore from Camolin Park?

About three miles.

Q. Who lived there from 1741 to 1750?

No body, I know of, but servants.

Q. Had not Richard Donovan a family there?

He had not; his family came to reside there, before I was born many years.

Q. Was you visited by any of that family, that resided in the country?

They did not reside in the country, for the Kellymount gang beset his house, and fired a shot, and put out his eye; and he left it: and he never lived there after, that I knew of. He did live at Enniscorthy, about nine miles from Camolin.

Q. During this period from 1741 to 1750 was you visited by any of the Donovan family of Ballymore?

No.

Q. From 1750 to 1752 was you visited by them?

I do not recollect I was.

Q. As to the family of colonel Ram, I am obliged to make the like enquiry, was you visited by them at that time?

No; never had intercourse with them from first to last; except colonel Ram and his brother major Ram.

Q. Was you visited by Mrs. Doyne or Mrs. Spring from 1741 to 1752?

No.

Q. Were not they relations of lord Anglesey's?

Yes.

Q. During the time you were obliged to keep the secret, had you no person in your peculiar confidence?

I cannot say I had. My mother was alive.

Q. Did not your living in the house of Camolin create a doubt as to your situation?

I believe it did; barring that of not visiting, I was in the same situation before as after.

Q. In 1752 was not you with child, or reputed to be so at the time of the second marriage?

I was not nor for 2 or 3 years before.

Q. Did lord Anglesey think so at the time?

He had no reason to imagine it.

Q. Was there not a parish church near Camolin Park, and a clergyman belonging to it at that time in 1752?

Yes; his name was Maw.

Q. At what time did your son Arthur leave school?

I cannot tell. He was at school at Enniscorthy, after he left Ross school: it was after my

my second marriage that he left Ross School.

Q. At what time did Richard make the affidavit?

I cannot tell, but it might be three or four years ago; I do not imagine it was long before I went to England in 1770; I imagine, it was the winter before, but cannot be positive.

Q. Is not Richard the child, that was born in 1746?

I believe he is.

Q. Do you not believe, lady Haverham has some provision from lord Valentia?

Yes. And it was I fixed it for her, before my son came of age. She has no provision from her husband Mr. Ashurst, that I know of.

Q. Did not lord Anglesey and Charles Annesley join in making leases of the Wexford estate, before the suit was at an end?

I believe they did.

Q. Was it in 1744?

I cannot say.

I was well acquainted with Edward Hay, there was an intimacy; they were neighbours. The provision, I have just now, is under the will of lord Anglesey, but I have a right to a great deal more, when I think proper to apply for it.

Q. Were not the articles of settlement between Charles Annesley and lord Anglesey in the year 1737?

That was the very reason, that Mr. Fitzgerald mentioned to me about the 1500l. a year, I imagine.

Q. Don't you believe, lord Anglesey was tenant for life under these articles?

I am not judge enough of the law to distinguish that. I believe, lord Anglesey did levy fines and suffer recoveries of his estate.

Q. Don't you believe, that if Richard appeared to be legitimate, he would have some claim on that property?

I do not know, whether he would or no that is a matter I never heard discussed.

Q. Did you ever hear lord Anglesey inform Richard of his family by the mother's side, who they were?

I never heard him say any thing one way or the other, but calling him Dick Salkeld

Examined by the Lords.

I was in England in autumn 1761. I did not apply to walk in the coronation; it was done for me. I left all my daughters at Camolin park; and before I returned, two of them were sent to Mr. Fitzgerald's to meet me on my return.

I did frequently correspond, by letters with lord Anglesey; I have none of them: those letters, I am sure, must appear as from a wife to a husband, or husband to a wife, circumstanced as we were.

Q. Were the letters conceived in the same terms as between husband and wife?

I could not subscribe dutiful wife in our situation, because our letters might be intercepted as well as others.

Mr. Derency was lord Anglesey's agent; I cannot say, that he intrusted the secret with him.

Q. Do you imagine, that if lord Anglesey had not thought proper to keep that secret, he would have had the usual number of sponsors?

I am to believe so.

Q. In what month and year was your first child born?

In 1741-2.

Q. Was you in England at the time of the application made for your walking in the coronation?

I was.

Adjourned till to morrow.

Die Jours 7 May, 1772.

Lord RANELAGH in the chair.

Council called in.

Arthur Annesley called, and told his petition was referred, and asked if ready to proceed; he desired a day or two to instruct council.

Granted, and desired to be expeditious.

Fifth witness, Edward Butler.

Q *WAS you acquainted with Richard late earl of Anglesey?*

I was.

Q *Are you an attorney and solicitor in the courts in this kingdom?*

I am.

Q *Was you employed by lord Anglesey in his business at any time?*

No, except some trifling affairs, I never was concerned in the family affairs. I was employed as clerk on a commission between the pretender Landy here; but that was not lord Anglesey's particular business, three or four were concerned in it.

I was at Camolin park in 1752, I think, I came there the 7th of April 1752.

Q *how came you to be there at that time?*

I was at Wexford on a commission of a client, and came from thence to lord Anglesey's. I went to Wexford the first of April, and returned to Dublin the 10th, and called at lord Anglesey's the 7th, I staid there that night, and the 10th came to Dublin.

Q *Had you any conversation with him during that time as to a will?*

Lord Anglesey said, he was very glad to see me, for he expected counsellor Fitzgerald that afternoon. I did not intend to stay that night, if he had not kept me; I cannot recollect, whether he said, he had sent for me; but he told me, it was in order to draw his will, and I must stay there for fear he should have occasion for me. Mr. Fitzgerald did come there, while I was there; but before that lord Anglesey told me, that if Mr. Fitzgerald did not come, I must take the heads of his will to bring to Mr. Fitzgerald. Mr. Fitzgerald came, I believe, in two hours after me or thereabouts.

Q *Did he give instructions to any to draw a will?*

I suppose he did. I was not present at the time of his giving instructions; there was no body but Mr. Fitzgerald and lord Anglesey in the room; I know not whether lady Anglesey was. Lord Anglesey himself told me, he had given directions to Mr. Fitzgerald to draw the heads of his will, and when done, it was to be given to me to have it copied fair and sent to lord Anglesey. I sent the draft to lord Anglesey, and had it engrossed and sent it to him. I find by my memorandum book, that I returned to Dublin the 10th of April.

Q *In what time after your return did Mr. Fitzgerald send you this draft?*

It was not till May, as I can recollect, but I will see by my book, what time it was. About the second of May the copy of the will was made by me; there were three parts of the will, five skins in each part. These three ingrossments were made by the directions of lord Anglesey and Mr. Fitzgerald, one on stamp paper, I believe to be sent to England, and one for the executors.

Q *Where is that draft?*

I have it. The draft after it was perused by Mr. Fitzgerald the second time, for he first sent a rough draft, which I copied fair and sent it to him again. This is the draft of the first will; the draft that was perused the second time, the revised draft; it is signed by Mr. Fitzgerald, his hand in several places is in it.

Q *Did you hear from lord Anglesey in the interval?*

I had two letters from him; I have those letters in my hand; one dated 25th of April 1752, the other dated the 6th of May 1752.

I had

I had not sent the ingrossments to him at the time, for they could not go by post.

I have often seen lord Anglesey write. I believe, these letters are his hand writing; I am almost sure, they are; there were no other writings, to which that letter could refer, but that, for I had no other business. I sent the three parts of this will ingrossed, and ready to be executed.

The letters laid upon the table.

The witness reads a draft of the will.

Q. Is mention made of the countess of Anglesey in the will?

Yes.

Q. How is she called there?

Juliana Donovan, countess of Anglesey:

It is dated the day of 1752; it was drawn in April 1752. I believe, that will was executed. This was only a draft of the will, of which I sent three parts ingrossed. I have heard from Mr. Ianns, an intimate of lord Anglesey's, that it was executed: I do not know it of my own knowledge.

But this will, I have in my hands, was executed, and is still executed; it is dated the 13th of May 1754.

Before I parted with the ingrossments, I received two letters from lord Anglesey, in which he says, he would send for those writings, and did send a person for those writings; and never complained, that he had not got them; and wou'd certainly have wrote to me, if he had not. I had the draft of the other will drawn by a lawyer, and it was sent to me to be finished. I am not a witness to that will, but it is executed by lord Anglesey: It is witnessed by three persons, William Curtis, archdeacon of Ferns, R. Graham, captain in the fourth regiment of horse, John Ward, collector of Rofs.

I believe, Mr. Fitzgerald is dead; died some time last long vacation or thereabouts. He was examined before the Lords.

I was at Camolin-park in September 1750.

Neither council or agent for lord Valentia ever saw this will, that is in my hands.

The objection to reading it, being waved, it was read by the witness.

I did prepare that will by lord Anglesey's directions: I gave instructions to a lawyer to draw it: his name was counsellor Eustace, who was a chamber council.

Q. When you was at Camolin-park, in 1750 in September, was any other person there at that time not belonging to the family?

Francis Annesley of Ballyfax was there.

Q. Do you know of any agreement between him and lord Anglesey as to the house and demesne of Ballyfax?

There is an agreement, that lord Anglesey was to have it during life, and was to give him a bond, he had of his, for between 700l. or 800l. I drew the writing betwixt them, and I desired to see the bond in order to mention the consideration of the agreement, and the bond was produced to me on that occasion. Lord Anglesey sent up Mr. Ianns, I think, for the bond, and the bond was payable to Juliana Donovan, as well as I can recollect. After the deed was executed, Mr. Annesley said, he must have a receipt on the back of the bond from Mrs. Donovan; there was a receipt signed.

Q. Was it signed immediately?

Upon his mentioning a receipt lord Anglesey sent up Mr. Ianns to lady Anglesey twice, and she did not come the first or second time; but at last she did come down, and she was all in tears. Lord Anglesey went up himself, he brought her down, and she was all in tears. After that, when she came down, there was a table in the hall, and she came down to it. I was close to her at her elbow; and she stooped down to sign it, and muttered something low to herself of its being cruel or severe treatment, or something of that kind; and she signed the receipt, and, I believe, I am witness to it: I am witness to the deed, I know.

Q. After signing this receipt did Mr. Annesley take the bond and receipt into his possession?

Mr. Annesley afterwards called me out to the steps of the door, and he had the bond and receipt in his hands, and told me in this manner, I am better pleased with this receipt than the money; for I have a suspicion, that this lady is married, or will claim a marriage, and this will be evidence against her some time or other.

Cross examination by Mr. Hussy.

I received the instructions for that will, I produced, I believe, originally, from lord Anglesey, and afterwards I had them from Mr. Eustace, for I entered them in my book: I

N

had

had not instructions in writing from lord Anglesey.

Q. When that bond was released, what was the consideration of that release?

The house and demesne of Ballysax for lord Anglesey's life. I do not know, whether judgment was entered. Lady Anglesey released the bond; Ballysax was given to lord Anglesey: Lady Anglesey received nothing, that I know of. I cannot recollect, whether there was a warrant to that bond. I would not be so positive of that, if I had not seen the deed, to which I was witness, some time ago. When the first disputes arose, the deed was shewn to me, or else I should not remember so well the exact time.

Q. Did lord Anglesey ever acknowledge Ann Simpson as his wife?

Never in my hearing: I have heard, that he has acknowledged her as his wife, but I never knew or was acquainted with her. I have heard it, that she was called lady Anglesey by him, and from thence I believe, he did call her so; and have heard, she has gone to publick places, as his lady. If I am to form a belief, from what, I saw, I do not believe, she was his wife, for he had another living, for it was in 1735 I saw certificates signed by her, acknowledging that she knew of a former wife, Mrs. Prust. I saw such certificate, shewn to me by Mr. Ianns before the year 1740. I cannot believe, that she was so. I never heard, that he acknowledged it, but have heard, that she went by his name; I suppose, lord Anglesey did generally acknowledge it, that she was his wife. He might be capable to acknowledge one for his wife, that was not so; but I believe, he would not, when he was doing so solemn a thing as making his will.

Q. Who was the presumptive heir to the Irish honours on the event of lord Anglesey's dying without issue male?

I have heard, Francis Annesley was; I do not know, that was the report in his family, for I never heard it said in the family, but it was generally understood so.

Cross examined by Mr. Recorder.

Q. After the receipt given did not lord Anglesey give a warrant of attorney to acknowledge satisfaction on that judgment?

I know nothing about it; I never heard or saw it.

Q. Who was law agent for lord Anglesey in 1751?

Mark Whyte.

Q. Was not he attorney for lord Anglesey during his life in general?

He was very soon after the trial in the exchequer with James Annesley; he was law agent and manager for the family, 'till lord Anglesey died.

Q. If so, then how was you recommended for this particular business, and by whom?

Lord Anglesey had a very great regard and esteem for me, and did not intrust Mark Whyte with the knowledge of this will.

Q. Was you recommended by any body for this particular purpose?

I was not. It was lord Anglesey's own particular request and desire. Lord Anglesey told me, it was time then to settle his affairs, for he had been married a great while, and it was not of any use to keep my marriage a secret longer, and if Mr. Fitzgerald does not come, you must take the heads of my will. This was in 1752 in the morning before dinner.

Q. Was you recommended by any person in 1754?

I wanted no recommendation of any body. I was employed on the commission in a cause between James Annesley, that was Landy, and lord Anglesey, and I was a year on that controversy, and wanted no recommendation.

Q. In what year was Mr. Fitzgerald first employed by lord Anglesey?

I do not know; it was after that trial, he was employed by him, but I think, he was not concerned in that affair.

Q. Was not he employed for the pretender?

He was on that commission, and was at Wexford, when the commission was speeding there.

I believe, the name Richard Annesley, in that will, that I have read, is the present claimant. I never saw him at lord Anglesey's in my life; I have been a week together there, and saw the other children, Juliana and the present lord Valentia there, frequently saw them there coming down to ask lord Anglesey's blessing.

I never heard, when he was born. Never heard any thing of him 'till of late.

I never read that will from the day, I gave it to lord Anglesey, 'till I read it here.

Q. Is not 300l. a year given him?

I believe it is so in the will; by the last will I believe 3000l. was left to him.

Q. From

Q From the date of the first to the date of the second will was Richard of such years as to be capable of offending his father?

I know nothing of that at all; but have heard since, that he ran away from school; I do not know at what time, or whether it was between the date of the first and date of the last will. I heard, that he had offended his father. I have been three or four days at a time; when I went the circuit I would call to see lord Anglesey, but know nothing of the private transactions of the family.

I did send a copy of the will to lord Anglesey, and he, I believe, sent it back again to me to be ingrossed. I mean the will in 1752.

Examined by council for lord Valentia.

Q Do you remember suits between lord Anglesey and Charles Annesley?

I do not. I remember suits between lord Anglesey and Mr. Pitt in the exchequer.

Q Who was the attorney concerned for Charles Annesley?

I believe Mark Whyte; and it was Charles Annesley brought him in to be concerned for lord Anglesey, for at the time of the trial in 1743 Mr. Burroughs was agent for lord Anglesey, and Mark Whyte agent for Charles Annesley. Lord Anglesey did not chuse to communicate transactions relating to the wills to Mark Whyte.

Q Did you see those young ladies, daughters of lord Anglesey by his lady, in 1761?

I did at my own house, and at counsellor Fitzgerald's, and at Colbridge races in Mr. Fitzgerald's coach. After the second marriage I never heard them addressed by any other names than ladies. Mr. Fitzgerald at the time of those races was in England. I never knew them addressed otherwise after 1752. Mr. Fitzgerald went with lady Anglesey to London, and she left those young ladies with Mrs. Fitzgerald, 'till she came back. After 1752 the present lord Valentia was always called lord Annesley from that year.

Q How was Richard Annesley styled?

I never heard of him 'till lately; I never heard him called any thing but Mr. Richard Annesley, or yellow Dick.

Q Did you ever hear lord Anglesey say any thing about Richard Annesley?

I do not remember, I ever did.

Examined by the Lords

I believe, Mr. Fitzgerald never went with

lady Anglesey but that once, 'till he went the last year to the lords. Mr. Fitzgerald went with her to London. The reason of their being at those races was, because they were left with Mrs. Fitzgerald; I do not know, whether Mrs. Fitzgerald was with them or one of Mr. Fitzgerald's daughters. I think, no gentleman was with them. Mr. Fitzgerald has a son, I do not remember, he was at the races. I was not examined before the lords. Mr. Fitzgerald did go upon that occasion to England; he did not carry with him the draft of that will, that I produced. I parted with neither of those wills, for I have had them in my possession, since they were drawn 'till now; neither of them was produced in England; I believe, the reason was, it was intended, I should go to England, but I could not leave the court, as term was coming on. I believe, I did mention to the agent or manager, that I had the wills, but I never gave them.

When I took instructions in 1754, lord Anglesey did not take notice to say, that he had a former will.

Q Is it not usual to produce that will, if you have it in being, when you are to execute a last will?

It was not lord Anglesey himself, that spoke to me myself about it; I believe, I had no conversation with him about it, it was by letters or messages, that passed between us, that the second will was drawn.

Q In that will does he say, he had made a provision or intended to make a provision?

He made a provision for every one of his natural children in that will, but he does not recite, I believe, that he had made a provision for them before. I did not take the instructions myself for the will in 1752, but I was there at the time Mr. Fitzgerald took the instructions.

Q Is there in that draft of that will any notice taken of the children by lady Anglesey?

I believe, there is; they are not called lord or ladies in that first will; I believe, that was owing to Mr. Fitzgerald's manner of drawing it; I am most clear, it was, for it was very inaccurately drawn.

I did not make any observation upon lady Anglesey's signing Juliana Donovan, but I saw her cry. It was not communicated to me 'till after that that lord Anglesey was married; I could not but take notice of it in my own mind

mind, it was so visible a thing, but no other notice.

Q. Did you observe to lord Anglesey upon the inaccuracies?

I believe not, for a lawyer was concerned; nor did he make observations thereof I believe; for, if so, it would be taken notice of in the draft.

I knew lord Anglesey intimately in 1744; from that time generally twice a year I used to call on him, and have been there a week together; I do not remember to have seen lady Anglesey at the table till after the second marriage.

Mr. Fitzgerald returned with lady Anglesey as well as went to England with her, staid with her the whole time.

Q. Do you imagine, that lady Anglesey by seeing that paper thought, she was to be damaged in any particular in money matters?

I did not know her motive, as I knew nothing of the marriage. I believe, she knew the contents of that paper. I cannot tell, when that bond was dated, for I never saw the bond till then, and never since. She did not mention the cause of her uneasiness to me.

I cannot tell, in what time of the year she went with Mr. Fitzgerald; I believe, it was not above four or five months after lord Anglesey's death. She went, I believe, to have the present lord Valentia entered in the college, and Mr. Fitzgerald went with her. She returned some time before term, I believe in November.

I thought, I was a good deal in the confidence of lord Anglesey. Before 1752 he never gave me instructions to draw a will; I never heard of a will intended by him before that time. I believe, that was the first will, he ever made or attempted to make.

I believe, I drew the receipt. I believe, I did not read the bond, but I read the consideration in order to enter it on the deed; I believe, that consideration was 730l. or 740l. the consideration was the giving Ballysax to lord Anglesey for life at a pepper corn rent. If the money was really her own, it was to be sure so much lost to her: I believe, her muttering about that receipt was for the loss of the money, or some thing else; Indeed I do not believe, it was for such a small matter as that sum. I know not, who wrote that bond, nor did ever I hear.

Q. What do you now believe was the cause of that distress?

From what I have heard and found since, it was, because she was obliged to sign her name Donovan; and not from any pecuniary motive.

Sixth Witness, Matthew Talbot.

I was in the county of Wexford in spring 1751. I did know Dominick Forde in that year; I went with him in spring 1751 to Camolin park. Before this time I had seen lord Anglesey, when I was a little boy, but had no knowledge of him. Dominick Forde went with me to introduce me at lord Anglesey's request, as he told me. Forde staid there but one night, I staid three or four.

Q. While you staid there, had lord Anglesey at any time in your presence received his post letters?

I do remember it.

Q. Did any thing particular appear at that time in him?

I did observe, lord Anglesey seemed to be in emotion on reading one of the letters, and I said, I hope, your lordship has not received any ill news.

Q. What gave occasion to your asking that question?

I thought, I saw him in emotion and uneasiness, or start upon reading that letter. Lord Anglesey answered, no ill news, but I have received an impertinent letter from a poor relation; he handed the letter cross the table to me, and desired, I would read it, if I pleased. I did read it, the contents of the letter were to this purport; to the best of my recollection, "As my son will one day bear part of your lordship's honours, I am willing to give him such education, as will become it, and hope your lordship will aid me in giving him such an education." I believe, he intended him to travel, or some thing of that kind, as he was to succeed to part of his honours. I returned the letter, and lord Anglesey said, aye, I will disappoint them all, for I will show them an heir, and a lawful one too.

Q. Did lord Anglesey ever explain those words what he meant?

Upon my going to Camolin with Dominick Forde we had a conversation about the park, and about lord Anglesey, and he told me, there was a very fine lady there, that was talked of to be privately married to him, but that he did not know, whether I should see her or not. That led me to imagine, that

that son and heir, he meant, was by this lady. I did not see the lady on this visit. Dominick Forde is dead.

I was acquainted with counsellor Fitzgerald; I believe, he died last year; at the time of his examination before the lords I was present. He was examined on the part of lord Valentia, then styled lord Anglesey, at the bar of the house of lords, to give testimony, as far as he knew, touching the merits of the claim.

Q. What did Mr. Fitzgerald depose?

I recollect one part of his testimony, of which I took particular notice, relative to the instructions he received; but I can't recollect his evidence in the whole, or upon his cross examination.

The question objected to.

The objection allowed.

Q. Did you ever hear lord Anglesey on any other occasion talk on the same subject, as to the marriage?

I did; the year before lord Anglesey died, to the best of my recollection, I went to live at my own house in the county of Wexford. I visited lord Anglesey frequently: and one day after dinner he began to talk of his family affairs in a very familiar manner, as I had the honour of his confidence in some respects; and at that time there were the 99 years leases, some of them, near expiring; and lord Anglesey told me, he was treating with several about giving them new leases. He then proceeded pretty far into the state of his family affairs, and various disputes; and how he had been distressed by many of his relations. About this time of this conversation he took a whistle, which he generally had in his pocket, and whistled, and called for his son the present lord Valentia, and said, Arthur, my dear, why do not you stay here, there is no body but your friend Mr. Talbot; he then seemed to fill his eyes, as he had but weak nerves; and said, he would spend to the last guinea I had to support your rights, meaning this property the 99 year leases; and on saying so he turned about to me again and said, my dear Mathew, in a tender way (for he was in a tender mood) may I never enter into the kingdom of glory, but that is my son born in wedlock. That was all the conversation on that subject. I do not recollect, I ever had further discourse on this subject.

From 1751 to lord Anglesey's death I was intimately acquainted with him: but in 1752 I went to Spain, France, and Portugal, and returned in 1755: but all the time I was in Ireland, I had the honour to be very well acquainted with him; and after 1755 till his death; and was often at Camolin with him. Lady Anglesey during that time was treated by him with the greatest tenderness and affection. Lord Valentia was called lord Annesley. The young ladies called lady Richarda, lady Juliana, and lady Catherine.

I have seen Stephen Hay, and was acquainted with him; I saw him in 1744 or 1745, for he came and paid me two visits; the first visit was as a compliment, as he was of a family in my neighbourhood, his brother of a very worthy family: the second visit was to borrow some money from me; he then asked me, whether I could lend him a little, as he was in great distress. I told him, I could not; he desired my note of hand, and he would raise money on it; and I should never hear more of my note. I told him, I could not, I did not think it prudent for a young man just going into business to have his name handed about. I believe, he was in very wretched circumstances. For on that occasion I enquired of him from my countrymen I heard this; and heard a very indifferent character of him; which gave me concern, as I had an esteem for his family: and I apprehended, he might on this apply to Mr. Masterfon. I gave him the hint. He did apply to him; and he refused him, and thanked me for the hint. I did not at that time hear, he was married; but in 1747, when I returned from Portugal, I dined at my uncle's house at Ham common; a Mr. Salkeld dined there on a Sunday, and after he went away, the company asked, who he was; and it was answered, he was a very honest gentleman, a broker in the city, who was rendered very unhappy by his unfortunate connection.

This objected to, as hearsay.

Q. Did you ever see Richard Annesley at Camolin?

I have seen him since lord Anglesey's death, but do not know I ever saw him before his death.

I was examined as a witness. Richard Annesley, I believe, came a few days after we were examined; I do not know, whether he was there at the time: I have no reason

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to

No doubt, but he knew of that proceeding before the lords. He did come to London before I left it; but I cannot say, whether he left it before the hearing was over: I should rather imagine, the hearing was over, before he left it; but cannot be positive.

Q. In what manner has he been treated by lady Anglesey?

I am certain, very kindly and very affectionately, as a friend; she was always very ready and willing to supply him with more than his income was; and made him some presents; and I always spoke in his favour in his unhappy situation. Lady Anglesey went this time two years after the first examination; near a year before it was closed she went to Hagley. Richard was in London in May 1770; and the hearing was closed in April 1771.

Cross examination by Mr. Kelly, on the part of John Annesley.

Q. Who wrote that letter, that gave lord Anglesey so much emotion, when you was at his house? by what name?

To the best of my recollection the name was Annesley. I heard of Francis Annesley of Ballysax. I believe he died without issue male; but know nothing of it certainly. I cannot tell, who it came from; I suppose, it was from some of the nearest relations of his, by the words of the letter. I believe, that letter came from the father of the claimant John Annesley; it was to desire aid; to give aid to his son, who would one day bear part of his honours: and that was the expression, which gave him uneasiness.

Q. Did the writer mean to give any offence to lord Anglesey?

I cannot tell. I should imagine, he would not write such a letter with a design to give offence.

Q. Do not you believe the person, who was to succeed to the honours after the death of lord Anglesey, was very inquisitive to know, whether lord Anglesey was married or not.

I imagine, it is natural, he should be inquisitive.

Q. Then do not you believe, that the writer of that letter did not imagine lord Anglesey was married?

I cannot tell; he might have done it by way of trial, to see what answer he could get.

Q. Do you believe, that was the purpose of it?

I cannot form any idea: it was either to get assistance, or to extort an answer; I cannot tell which to believe. I cannot form any belief, what the writer of that letter imagined, whether lord Anglesey was married or not; or what he imagined about it.

Q. Would he have wrote such a letter, if he thought, lord Anglesey was married, and had a legitimate son at that time?

I think, he might by way of trial, tho' I cannot form any opinion: I cannot form any judgment of the writer's ideas.

It was in 1760, that lord Anglesey had that conversation with me, when he was very sickly. I do not recollect, any body was present. I did not express any thing about his being his legitimate son, or the least suspicion at that time; it was said without any introduction; for he was very apt to say things without any introduction.

Q. Had not you before that conversation heard of the marriage in 1752?

I had.

Q. Had not you heard before, that lord Anglesey had a certificate reciting the former marriage?

I had heard that. I believe, lord Anglesey did not know, that I was acquainted with this circumstance. In 1755 that marriage was public; and in 1760, I dare say, lord Anglesey imagined, I had heard of it.

Q. What occasion had lord Anglesey to tell you, when he had in 1752 publickly avowed his marriage in 1741, what occasion had he in 1760 to say that to you?

I cannot say; he was a very extraordinary man in many things. I did know John Annesley. I heard talk of Francis his uncle. Lord Anglesey did not say a single word about Francis Annesley, or any Annesley but what I mention.

Q. If lord Anglesey had no lawful issue male of his own, do not you believe, he considered the writer of that letter would be intitled to his Irish honours?

I cannot tell, in what light he considered it; he said nothing more. Lord Anglesey seemed to be much offended with the writer of that letter. I cannot conceive, what lord Anglesey would say or do; he said, he had an heir, and would disappoint them all; for I have an heir, and a lawful one too. He certainly meant, that he would disappoint them, because he had a son of his own, to whom the titles

titles would go. I should naturally believe, lord Anglesey did imagine, the writer of that letter would succeed to his honours.

Cross examined for Richard

Richard's expences and travelling to Hagley were borne; for I believe, lady Anglesey paid all the expences, and Richard was part of the company: afterwards, I believe, he paid his own expences.

I remember a Mr. Deey at Hagley; it was during the cause.

Q. Was any proposal made to him to sign any papers as to Camolin woods?

I believe, there might; I cannot remember particularly: but counsellor Deey made such a proposal; and disagreeable words past between him and Richard. Mr. Deey was a very officious friendly man, and might have had directions from lord Valentia; but I do not know, from whom he got his directions. The import of the proposal was about his signing or giving his consent to the disposal of the woods in the park; and Deey, I believe, wanted to see lord Anglesey's will; and Richard shewed part of the will, not the whole. This was, while the cause was depending, after adjournment of the sessions.

I believe, I have told him, that I heard his

mother's father, Mr. Salkeld, was a very honest man.

I went to England in 1761, in July I believe, I forget, who went over. I went by myself. Lady Anglesey went over at that time with Mr. Fitzgerald; I saw them frequently in England; they staid there till after the coronation: I returned immediately after the coronation: she returned with Mr. Fitzgerald immediately after the coronation, to the best of my recollection. I cannot recollect the time of the coronation; I think, it was in October, but cannot be positive: it was September or October. I returned in less than a month after the coronation, and lady Anglesey too; and she lodged with Mr. Fitzgerald. I was here in October, I believe the beginning, but cannot recollect. I did not come with her; she was here before me a few days, I think. I cannot be positive at this distance of time, what week in October, I believe, she might be a week here before me; I cannot tell whether she was a fortnight. I visited her at Mr. Fitzgerald's in Caple-street.

Q. Who was this Mr. Annesley the writer of that letter?

I did not see the christian name.

Adjourned till to-morrow.

Die Veneris, 8 May, 1772.

Lord RANELAGH in the chair.

Council called in.

Shepherd French, 7th Witness.

I Live in Ross in the county of Wexford. I lived in Ross in 1718; I knew lord Anglesey that year: I cannot be positive, it was in 1718, 1719, or 1720. He was reputed to be a married man there; he lived at that time with his wife, that was reputed as such. They cohabited as man and wife: her name I cannot say at that time; it was so near Priest; but I heard since it was Prust. It was the general reputation in Ross, they were man and wife, and they cohabited as such.

I do not know the present lady Anglesey. She was in 1752 in Ross; in June for certain she was.

Q. Was she in June 1752 visited there in any and what light?

She was as lady Anglesey, at that time.

Q. Was the reputation various.

There was no great matter of doubt about it; but most people did believe, she was married at that time. She was visited at that time. I was a married man then; my wife did visit her at that time; and a great many other people visited her then. Ross is a trading town. I am in trade. The day my wife visited there, she told me, there were 12 or 14 ladies more at the same time, upon her return home.

I did know Richard, a son of lord Anglesey; I cannot exactly tell how long since; I believe 12 or 14, or 15 years ago. I knew him

him, when he first came to Rofs, which I suppose to be about that time,

Q. From the time you first knew him, until these few months, was he reputed legitimate or illegitimate?

Always in the light of a natural son of lord Anglesey; I never heard the contrary till these few months. He lodged in Rofs at Mr. Lloyd's, and at the curate Ben. Batts's afterwards.

Cross examination, by Mr. Kelly.

My wife did never visit any other countess that I know of; I did see lady Anglesey at that time; I had not an opportunity to speak to her at that time; my wife never saw her before; she was never at Rofs before; that was the first time I ever heard; I did not hear what she declared, but she was taken in general to be and was called lady Anglesey; so my wife told me, that she addressed her as such, and that the whole company did, but I cannot tell whether the rest did address so. She did not make a secret at all at that time, that she was lady Anglesey. I am sure, she went there in a coach and six; my wife soon after went to visit her while in Rofs. Not many ladies of quality went to Rofs but I have known some that have travelled. I never knew my wife visited any lady of quality in Rofs before. I never heard of lady Ann Hore being in Rofs. I cannot say who went with her in the coach.

Q. Were any of the children there?

I believe there were, but cannot be positive.

Q. If she was called lady Anglesey, was not the eldest son called lord Annesley?

There was no son called lord Annesley at that time, that I heard. I cannot say, whether I might see any of the young ladies at that time.

Q. If she came there a year before, would you have let your wife visit her?

I would not let my wife visit her in the capacity of a mistress, or in any other capacity than a wife. I cannot say, what she was a year before, but when she came to town, she passed as lady Anglesey.

I was tenant to the Anglesey estate, and I am now under lord Valentia; the late earl of Anglesey made me that lease; lord Valentia never did renew it for me.

Q. Was not you acquainted with your landlord's affairs at that time?

I had no greater opportunity than the rest of the tenants of the town had.

Q. Was not she well known to be countess of Anglesey a year before that?

I can form no belief at all about it. I was at lord Anglesey's house, I think, in 1744, but cannot be certain, may be 1743, 1744, or 1745, but I think in 1744; I did not see lady Anglesey at that time.

Q. Was she deemed countess of Anglesey in 1744? would you have called her so in 1744, if you had met her?

I would not; I did consider her as a kept mistress of lord Anglesey at that time.

Q. In 1748 was she generally considered lady Anglesey?

I cannot tell; it was far distant from where I lived.

Q. Did she go to Rofs then publicly to declare herself a countess?

I do not know her intent at that time, but she was deemed so at that time, and went with lord Anglesey publicly in a coach and six.

Q. What was the reason, why the eldest son was not called lord Annesley also?

I cannot assign any reason for it.

Q. What trade do you follow?

Chandling and soapboiling. My wife did not go to visit in a chair, she walked to see her. I had daughters at that time, they were not grown up to young women, they were young girls.

Q. Did they visit her?

I cannot say; if any of them did, it must be the eldest, but I am not positive. I had no son, that was fit to go.

Q. Did your wife pay visits to all the people of fashion, that went to Rofs?

Not to all, but does pay visits to the best that reside in the town. She did not dine with lady Anglesey; I suppose, she went to drink tea with her.

Cross examined by the Recorder, for Richard.

I did not know Mr. Tottenham, then member for the town of Rofs, lived in Rofs; he had a wife and family then. I knew the family of the other member, Mr. Leigh, very well; he had not a wife and family in the town, but at a distance in the country; I take it to be twelve or fourteen miles from the town, but cannot be positive, for I never was there. Lord Anglesey was with lady Anglesey at this time; they lodged at the widow Napper's in Rofs.

I cannot

I cannot say, whether Richard Annesley lodged at Loyd's or Batt's at that time; but he lodged at both; the present lord Valentia lodged at the same time in the same place.

Q. Did Mr. Tottenham's family visit?

I heard, his wife did not; I do believe, she did not visit her. There is a Mr. John Tottenham, about ten miles from the town, had daughters grown up this time; I cannot say, whether his daughters did or did not, but he was not in the town, seldom came to the town; but a great many did visit.

Mr. Cliff I did and do know, he was a person of very great property, and as considerable a person as any in the town; he had a mother and sister living with him at that time; the sisters were grown up; I cannot tell, whether any of them did visit or no. If I could believe at all, I believe, they did not visit lady Anglesey.

Mrs. Ellit, I believe, was not there at that time.

Q. What was the reason, these principal families did not visit lady Anglesey at that time?

Because they were of one family with Mr. Tottenham, and he would not countenance that thing, without lord Anglesey would declare it publicly. Mr. Tottenham, when lord Anglesey spoke to him, why he did not visit his wife or lady, or why his wife did not, said, he could not visit in the way, in which she is, 'till she is your lady; lord Anglesey said, he had been married to her a great many years. That is only the report of the town, that those words passed; these words were reported to been passed sometime in June or July 1752. I mean Charles Tottenham, when lord Anglesey asked, why Mrs. Tottenham did not visit his wife or lady, Mr. Tottenham said, he could not do such a thing; you know, how the family is distressed with one of the kind already; until you make the marriage publicly declared, I cannot.

I knew lord Loftus, I believe, at that time; I cannot say, whether he was in Ross or no at that time: he lived in Ross or within fourteen miles at that time. I mean the first lord Loftus.

Q. Did your family visit at that time at lord Loftus's?

They did not. I did, but my wife and family did not, for this reason, that there was no woman of note, that visited him, because of the woman that he kept.

I am employed by lord Valentia as receiver to the town of Ross.

Q. Did lord Anglesey in June 1752 appear very fond of lady Anglesey?

I cannot say, I ever saw them together at that time. I heard, he was very fond of her at that time, and believe it, by what I heard.

Examined for lord Valentia.

Mrs. Napper was a relation of lord Anglesey; she is sister of alderman Hans Bailey in Dublin. There was another sister, who lived in the house at the time of their lodging there. These two ladies were very much ladies of character. She herself was related to lord Anglesey.

Q. Did you visit at Mr. Tottenham's?

Yes very often; but not at Mr. Cliff's.

Great part of Ross is the estate of lord Anglesey. I was and I am a tenant.

Q. What was the reason of your wife's going to visit lady Anglesey in June 1752?

She was a good while, before she visited, 'till we were satisfied, she was lady Anglesey by the report of the town that she was married, and 'till she was visited by other people.

Cross examination by Richard's Council.

Mrs. Nappers were tenants to lord Anglesey; they never were returned to me on the rent roll; they have a lease at a shilling a year upon her husband's giving up a large holding, he had; lord Anglesey gave him that for his wife's life.

Examined by the lords.

I am sixty years old next month; I am a freeman of Ross; I have a vote in the county of Wexford and in Ross. Of those twelve or fourteen ladies there was Mrs. Napper, James Napper's wife that lives about a mile from the town; there was Mrs. Alexander, wife of a merchant in Ross; Mrs. Loyd, the curate's wife; Mrs. Batts, who was a gentlewoman lived without the gates, her husband was agent to lord Anglesey that time; I cannot recollect any other. This is as my wife told me.

I first saw the earl of Anglesey in 1737; but I saw him, before he was lord Anglesey. I was born in the year 1712. I saw him first about 1718-19, or 1720, I believe in every year of the time.

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I never heard of a difference in the education of the present lord Valentia and Richard Annesley; I never saw any difference, nor do I believe, there was, there was no difference till 1752, that I could observe, or see, or hear.

Mrs. Napper's lease was granted, I believe, when Charles Annesley was in Ross, he procured it for him, I believe; I heard, it was granted at that time.

I am a burgher of Ross, it is considered as a compliment paid.

Mr. Batt was in opulence and independence, exclusive of the agency; and Mr. Napper is a gentleman of fortune.

Eighth Witness, Jane Batt.

Q. What was your father's name?

Benjamin Batt. He lived in Ross, followed merchandize, and kept a brewery another time; he was employed by lord Anglesey as agent; I cannot recollect the year particularly; between 1741 and 1751 he was so employed; in 1741, to the best of my recollection, he was, I imagine. I am near 40 years old to the best of my recollection.

I do recollect to have been on board a yatch; I heard, it was lord Anglesey's yatch. I cannot be particular, how long that yatch had been at Ross.

Q. What gave occasion to its coming?

I heard, that Mr. Neil, a clergyman, came with lord Anglesey in that yatch to Ross; I do not recollect the name of it. They came from Wales to the best of my knowledge. I was on board that yatch at that time.

When had you received that account, that Mr. Neil and lord Anglesey had come?

I heard it the day I was on board the yatch, that lord Anglesey and Mr. Neil were gone off to Camolin park.

The evidence objected to as being hearsay, and from a party but eight years old at the time, and as it led to a material fact.

Answered, it was only produced as making part of the reputation, and leading to a material fact.

Q. Were lord Anglesey or Mr. Neil on board the yatch, when you was there?

No, I did not see them, I believe they were gone to Camolin.

My father was agent at that time to lord Anglesey. My father did go on board with me to the best of my recollection.

Q. Why did you go on board?

The captain dined at my father's, and said, it was a very pretty yatch, and a pretty cabin, and desired, I might be taken on board to see it. To the best of my recollection my sister was in it. I never saw that yatch before or after at Ross. I was born at Ross; I was an inhabitant there in 1752.

Q. What was the reputation there as to my lady Anglesey's being married or not?

It was whispered about by many in 1752, that she was married to lord Anglesey; it was early in 1752, I think.

Q. Was you in Ross at the time of lord and lady Anglesey's coming together in 1752?

I was not there at their first coming in 1752, but I was there soon after.

Q. How soon after?

I think, it was in two or three months.

Q. When you returned to Ross, what was the reputation of that place, as to it?

I heard my father say, they were married, and that she dined at my father's house, and that she was treated as lady Anglesey by my father and mother. My father is not alive; he died, I believe, three years next June; he did make an affidavit as to this affair.

The present lord Valentia was at school in Ross. I believe in 1751, or thereabouts. Richard Annesley was at school there; lord Valentia lodged at Mr. Lloyd's curate of Ross. My father at that time resided just outside the market gate at Ross.

Q. Was there any difference between the treatment of these two, and was any reason assigned for that difference?

They, master Arthur and master Dick, dined sometimes at my father's, and I saw my father pay a deference to lord Valentia, that is, pay respect; the same deference, I do not think, was paid to Richard.

Q. Was any reason assigned for the difference?

Bartholomew Lloyd, with whom they had lodged, before they came to Ross, was on a visit at Camolin park, and called at my father's on his return, and he told my father, he believed, lord Anglesey and Miss Donovan were married. My father made a reply, that he thought, it would turn out so. I was present at this time. Bartholomew Lloyd was the curate of Ross. I cannot well recollect, when particularly this conversation was, but it was between 1746 and 1750: it was between 1747 and 1750 to the best of my knowledge; it was before the year

year 1752, I am positive and certain. Lord Valentia was removed to another school from Ross to Mr. Heydon's at Eniscorthy, as I heard, but I knew, he was removed from Ross. Richard was not removed at the same time; Richard remained at Lloyd's for a while, and afterwards was removed to my father's to lodge there.

Q. What was the reason of removing lord Valentia to Heydon's, and not the other?

I cannot say, except that I heard, lord Anglesey did not chuse to leave them together.

I was in London in 1761; lady Anglesey, lord Valentia, and counsellor Fitzgerald went with me; we went in August together.

I did see the coronation. I think, we returned early in October to Parkgate; I am pretty positive in that. I landed at Dunleary; I cannot be particular as to the day of the month, but it was in October; I think, it was the 12th or 15th. I think I staid in London pretty near a month after the coronation: I do not know, what day and month the late coronation was.

Q. It was on the 22d of September 1761: How long after that did you stay in London?

I believe a month or thereabout. From London we went to Parkgate, counsellor Fitzgerald, lady Anglesey, and I: we were kept at Parkgate the best part of a week, or thereabout, for we waited for a wind. We got on board at seven a Sunday morning, and did not land till three a Wednesday morning. I cannot be positive, that I staid a month in London after the coronation; it was either three weeks or a month.

Cross examination by Mr. Hussy.

Q. Were any other gentlemen or ladies with you on board the yacht?

To the best of my recollection my father and one of my sisters, or two of them, I think there were two; those sisters were older than me; one of them was two years older, the other, I believe, was either four or five years older.

Q. How happens it, that you recollect all the particulars, you mention?

I so often heard my father repeat it, and that he had made an affidavit of it, before he died.

Q. Do you speak it from hearsay from your father only?

I could not be so particular, but that I heard my father often say it, and made an

affidavit; and I saw it entered in his books, that he paid for the piloting that yacht in 1741.

Q. Where is that book now?

It is in Dublin.

Q. Is there any entry in this book, that Mr. Neil and lord Anglesey came from Wales then?

I believe not, excepting my father's paying for carriage of beef and horse hire, for things that went with lord Anglesey at that time, no other entry as to lord Anglesey, I believe. There is no entry in the book, that enables me to remember that conversation, but only that I heard it mentioned by the captain and my father, that lord Anglesey and Mr. Neil were gone to the park.

Q. How came you to remember that at so great a distance, and you so young then?

It struck me at the time, and hearing it so often talked of since, it refreshed my memory. I heard it mentioned last in 1768; my father talked of it to two gentlemen, that came to his house then. I certainly must relate it more on confidence from them, than from my own recollection, and from hearing it so often repeated.

Q. How much was paid for piloting?

Three half crowns, to the best of my recollection.

Q. What pilotage is it?

From Ballyhack up to Ross; the pilot's name Abel Snow.

I was on board this yacht, I think, in September 1741 to the best of my recollection; I cannot be particular as to the very day.

Q. Can you positively say, it was not in October?

It could not be in October, that I was on board; it positively was not in October.

Q. How can you swear to a transaction, when you was so very young?

From hearing it so often repeated, and seeing it entered in my father's book, and hearing my father so often repeat it: My father did not ever mention the day, that I can recollect.

Q. What time did you first hear him mention any thing of it, in this conversation?

He went to his book at the time of his making that affidavit, and I heard him often repeat it since; for he said, he would not be particular as to his memory, but that he had it down entered in his book.

Q. At what time did he make that affidavit?

I cannot

I cannot say, I am not certain as to the time. I cannot be positive, that it was not the last day in September, it was in September. I cannot say what time in September, but I am positive it was not in October.

Q. Was it mentioned in that conversation on board the yacht, how long before that time lord Anglesey and Mr. Neil went to Camolin?

I do not recollect that it was.

Q. Was it mentioned as a matter, that happened immediately before?

I cannot say.

Q. Was it not mentioned as a thing very lately happened?

I cannot say. I can form no belief or recollection about it.

Q. Was you ever on board any other vessel at Ross?

I have been since on board several: I do not recollect at that time that I was.

Q. Was you within seven years?

I cannot say.

Q. Or within ten years last past?

I cannot say; I cannot be particular as to any other vessel, for many ships came to the quay, that I have been on board. My father never did pay the expences of any other ship, that came to the quay to my knowledge. My father had land about the town, and in it. I do not know, but he did sell hops. I do not think, he ever did import those hops: He did import; Mr. Ianns and he had wines and brandies, and those things, but he never made an entry thereof, for Mr. Ianns took care of all those things.

Q. When was it, you left London last?

I cannot be particular, nor as to the month.

Q. Was it in October or November?

I cannot say; I think, it was early in October, or the latter end of the month before that, for we called at Oxford in our way down.

Q. In 1747 in what light was lady Anglesey's living with lord Anglesey considered?

I cannot say.

Q. In 1748?

It was there or thereabout, that Lloyd told my father they were married. Lloyd is not alive; there are sons of his alive. In 1752 I went to Ross; I cannot recollect in what month. I returned from the county of Carlow; I think it was the latter end of summer 1752.

Q. How long, after you went there, did lord and lady Anglesey continue there?

They were not there, when I returned from the county of Carlow, to the best of my recollection, but they came there soon after. They were there twice in 1752: I was not there at their first going there.

Q. Did lady Anglesey apply for leave to walk at the coronation?

Not to my knowledge; I have no reason to believe, she did: I believe, she did not apply: I did not hear her talk a word of it: I do not believe, she made any declaration; to me she did not.

Cross examination for Richard.

Q. Is the name of the yacht mentioned in your father's book?

I cannot say it is. The commander's name was Thompson, to the best of my recollection.

Q. How long did you know lord Valentia after that time of Lloyd's conversation?

It was in 1751, that lord Valentia came to Ross, or thereabout, to the best of my recollection; I cannot be more particular to that time.

Q. Then how can you remember transactions in 1741?

For the reason I gave before, hearing it so often repeated, and my father talk of it. I visited lord and lady Anglesey in 1752 at Ross: I cannot be particular as to the month, but it was in 1752. They were there before.

Q. Would you have visited lady Anglesey, had she been considered in a suspicious light?

I cannot say, as to myself, I was but a child, but my mother would not; as to myself, I was under the direction of my father and mother; I certainly must have done, as they would have me. I am now near forty; that was in 1752. I shall be forty the 28th of next June, it was so entered in my father's book. I think, it was in 1752 lord and lady Anglesey first came to Ross, and made a short stay, and returned to the park. At that time I did not regard myself as my own mistress as to my acquaintance. I did visit the family of the first lord Loftus. My mother was not alive at that time. I visited there of my own choice, as a great many there visited there at that time.

Q. Had not lord Loftus a lady, that lived with him at that time?

I heard

I heard so; she was not considered as his wife; and yet I did visit that family after my mother's death.

Richard was removed from the school of

Ross, I cannot say what year. I cannot say, he was removed from the school; he was removed from Mr. Lloyd's, where he lodged, to my father's. I cannot say positively, whether Lloyd or Mills kept the school, when they first went there.

Q. Was not it after lady Anglesey had been at Ross, he was so removed?

It was.

I cannot say, whether Mr. Ianns was bred to mercantile business: I heard, he was bred a surgeon. He was sickly, and went down to my father's in the country.

Q. During the continuance of that partnership did not Mr. Ianns generally reside with lord Anglesey?

He was sometimes there, sometimes at my father's.

Q. Did he not mostly reside there?

I cannot say, he did; he had a numerous acquaintance, and was much with them all.

Q. Why was the care of the books of this partnership committed to Ianns, and not to your father?

My father did not understand the wine business, and left it intirely to Ianns.

Q. Did not your father understand that business as well as Ianns, who was bred a surgeon?

I do not believe, he did.

Examined by the Lords.

Q. Have you any particular reason to determine, on what day of the month you landed in Ireland?

I cannot be positive as to the day of the month. I had no particular reason to put it down; it was in October to the best of my recollection.

Q. When last did you inspect your father's book?

In 1768, Mr. Whyte and Mr. Fielding came to Ross to make particular enquiry, when lord Anglesey and Mr. Neil landed and came to Ross; and thereupon my father looked at his books to see what time it was. My sister is alive, the second elder, who is older than I am. I never heard, what the nature of the affidavit, made by my father, was: I heard no particular about it; do not know the contents of it, but I heard, my father made it with regard to that. I cannot

recollect, there is any date in his book as to the time. I did not see my father make the entry, so that I cannot tell, what the distance of time was.

Q. How lately did you see that book?

Not long ago: I saw it this year. I did read those two entries, I speak of; they are entered in one leaf: He was a very irregular man in keeping his books, a bad accomptant, and made several entries in one leaf, tho' of different things. I think, the first entry is the ninth of September; the same leaf the second entry is; but without a date, I think. It was a kind of a memorandum book, in which he put several things. I do not recollect any other entry or date between those two entries.

The name of the ship, in which I came over with Mr. Fitzgerald, was, I think, the Lively, captain Williams.

That Whyte, I mentioned, was agent to lord Anglesey, but not at that time. Whyte and Fielding were not concerned for lord Anglesey at that time. I understood, they came to inquire for one Mr. Annesley of Ballyfax. I believe, my father did shew them the books, for I was by. I was not examined in England before the lords: I believe, I saw that book near a week. I cannot say, I live at Ross now, for I have not settled any where since my father's death. That book was not carried to England.

Q. When did you first mention this entry to any body?

It was very lately. I did hear of the affair in England. I cannot say, I did mention it at that time; I did not think, it was any way material. I cannot tell the particular time, when I mentioned it to lord Anglesey's family. I did mention it to lady Anglesey, but cannot say what particular time, but it was since that dispute in England.

Q. How came the book now to be in Dublin?

It was for fear it should be called for by the lords.

I did not know Mr. Neil; I only heard, that it was Mr. Neil, who landed. I did not see lord Anglesey at that time, for his stay was short at Ross. I never did hear of Neil before that time.

That Conversation of Lloyd's was, before the young gentlemen were sent to school.

Q. Was it a month in London, or a month in London and on the road?

Q. It was

It was a month in both, I believe. We were not above four or five days between London and Parkgate.

That book was not a partnership book with Ianns: it may be sent for, if your lordships chuse it.

We came in lady Anglesey's own carriage, but hired post horses.

Q. When did you first perceive your father make a difference between lord Valentia and Richard?

When they were brought to dine at my father's. The first time I saw them dine at my father's, I did then perceive, he made a distinction between them.

Q. If your father called one master Arthur, and one master Dick, in what instances did he shew it?

He paid more attention, I think, to Arthur; and Arthur was helped at table before the other.

Mr. Neil and lord Anglesey came in the yacht to the quay, and landed at Ross. Lord Anglesey had not his own carriage, going to Camolin: I heard, he and Mr. Neil went in a chair together.

My father received lord Anglesey's rents at Ross; he had receipts and disbursements, and I believe, he had a book for that purpose; but I believe, he did not always put them down in one book: he trusted more to his memory than to his books. The money he expended for lord Anglesey, I believe, he did put down with other things. I believe, he had a book for lord Anglesey's affairs alone, because he used to settle his accounts: but this is not. I have not books with lord Anglesey's accounts; those books are with my brother in Ross: the book, I mention, is in my custody. I had not curiosity to make a comparison between that and other books. In 1768, I do not recollect, Whyte looked into any other book. My father told him, James Whyte, have nothing to say to it; for my lord and Mr. Neil were in Ross in 1741; and that he had made an affidavit, and to convince them brought his book down to shew them, for that he would not trust to his memory.

Q. Are any entries, of other sums on account of lord Anglesey in that book?

I believe, there are. There are dates to some articles there; to some not. I imagine, that book is all my father's hand writing.

Q. How long have you had that book in your possession?

Only since I came to town. It was in possession of my uncle, who was left executor to my father's will. It was sent up to me, for fear it should be called for.

I never heard of any dispute or quarrel between lord Valentia and Richard, except as boys will usually fall out; and lord Anglesey did not chuse they should be together.

There is another book, in which, I fancy, my father kept lord Anglesey's accounts: but this was a sort of day book, in which he made several entries. The other books are with my brother. This book was sent up to me by my desire, when, I thought, I should be sent for over to England. I brought the book to my uncle in the county of Carlow, and left it there; and desired him to send it up here to Mr. Percy's, where it was left, until I came to town. My brother had all the books in his custody before the trial in England. This was among my father's books. My father was living in 1761. Before the late trial I did recollect that entry. I believe, I did before the trial acquaint lady Anglesey of it; not myself, for I was in the county of Carlow.

I cannot describe the dress of Arthur and Richard; but do not think, one was as well dressed as the other; their coats were different; I cannot say as to linen.

Before 1752 I never heard my father call lord Valentia by any other name than master Arthur. I never heard my father call him lord Annesley before 1752.

My father was very sickly, and incapable of minding any thing towards his latter end. I believe, my father would not be biased one way or other, farther than justice or truth led him.

Mr. Neil and lord Anglesey went in a chair; I cannot say what, for I did not see.

The witness retired, and was called again.

Q. When did your father die?

I think it was in June; it will be three years next month.

I was not examined in England. Whyte was an agent to lord Anglesey; and Fielding was son in law to Whyte.

Q. On whose account did they come to inquire of this entry?

I think, it was on the account of Mr. Annesley of Ballysax.

Q. How came they to know of such a book?

They

They did not come to inquire about the book, but to inquire my father's knowledge of the affair. My father told them on that occasion, that he had such an entry in his book.

Q. When did you first mention this to any body, or to lady Anglesey particularly?

I cannot say. I do not think, I mentioned it to lady Anglesey till after Christmas last. I cannot tell, whether it was mentioned to any body. I believe, my father did speak of it publicly, but cannot say, except to Whyte and Fielding. I cannot recollect the time, they came there, exactly; but believe, it was in spring 1768.

I did not know Neil personally.

I cannot say, Whyte was agent at that time to any body, but had been agent to lord Anglesey. By the questions he was asking my father, and my father's answers, I think, he came to inquire for Mr. Annesley.

Examined for lord Valentia.

Q. Did the son of that Mr. Whyte marry any body?

A daughter of Mrs. Simpson, before that time I speak of.

It was early in November; the first of November, I think, that I landed. I could not recollect it, but lady Anglesey let me right.

9th Witness, Benjamin Rigley.

I did know the late lord Anglesey very well. I know Camolin Park very well; I was there in 1741, in September.

Q. Was lord Anglesey there in that month?

He came early in that month there, and he past by my house. I kept a mill from lord Anglesey in Camolin.

Q. What distance was your habitation from the Park?

A small mile. It is directly in the way from Ross to the Park; they must go by the mill. Lord Anglesey was there before the 15th of September.

Q. What is the reason of your being positive of that?

I went up with meal to the Park, to his house; and I saw lord Anglesey before the 15th.

Q. Have you any particular reason, for saying that it was before that day?

Yes; for I had a son born the 10th, and was christened the 16th of the month; and

lord Anglesey was there, before my son was born.

Q. How can you be positive, your son was born the 10th?

Because he was entered in my bible; his age was entered in my bible. Lord Anglesey came early in the month.

Cross examined by Mr. Kelly.

Q. Have you any more sons?

Yes; I have five sons; two before him, and two after.

Q. Can you recollect the time, each of them was born?

I cannot.

Q. Where was lord Anglesey, when your eldest son was born?

I cannot tell; he was not at the Park at the time all of them were born. Two were born at the time, Richard and Ben. I cannot readily tell, when they were born; but because that son particularly was born the 10th of September, and booked at that time, I can tell that.

One son was born in March.

Q. In what year?

One of them is 20 years of age at this time; his name is Isaac; he was born in March: Ben is 18.

Q. Can you tell the year?

I cannot tell what year; but he is 26.

Q. Then when you cannot tell what year, your son was born, how can you tell, lord Anglesey was there?

I can well tell perfectly he was there; for the reason I gave, for lord Anglesey's keeper was to stand godfather for that child. Ben is 18; but I cannot tell the year he was born.

Q. Was lord Anglesey at the Park in that year?

He was really there at that time.

Q. How can you tell that, then?

I can tell it, because lord Anglesey was there during that time.

Q. What reason have you for saying so?

Did you go with any meal at that time?

I did; and constantly: I waited on lord Anglesey with meal constantly; when he wanted it. I did every week carry meal to his house.

Q. Then why should that put you in mind of his being at home?

To be sure I did not carry meal every week, but constantly loaded, when there was occasion. It was not on account of my going up with meal, that I remembered; but lord Anglesey past by the mill, when he came to Ross; and

and his horse was drinking water; and I stepped up and welcomed him home; and he looked out of the chair: he was in a common chair; a one horse chair led by a servant. All the horses drank water there. A gentleman in black clothing, and a band about his neck, was with him; but I cannot tell, who he was: and I went up with meal the day following.

Q. Had not he a gown on him too?

I cannot say, whether he had in the chair or no; but when I went up with meal, I saw lord Anglesey, and this gentleman with him: and Nixon Donovan came out of the chamber, and walked up. After I delivered the meal, I examined, who he was, and they told me, he was one Mr. Neil a minister.

Q. Did you ever see lord Anglesey's horses drink water before?

Often. He does not always stop there. He often passes by that way. I have very often seen him in a coach and six pass by that way. I am very sure a servant led the chair.

Q. Was not lord Anglesey a remarkable good driver?

He did not drive them. I cannot say, whether he was a good driver: I did never see him drive himself.

Examined for lord Valentia.

I am positive, I had a son born soon after lord Anglesey came to Camolin.

Q. Did you at any time look to see the birth of that son?

I did look.

Q. Had you the same occasion to look into the book as to the birth of the other children? Did you look into the book for the birth of your son for the purpose of ascertaining the time, when lord Anglesey came to Camolin Park that year?

I did look into the book to fix the time, when my son was born.

Q. When did you see the entry in your book? Did you look into the book at any time in order to see the birth of that son?

I often did; but the book is in England; and I forgot it there; so that I did not see it of late. I was carried to England, for to certify the age of my son. I was examined before the lords, but not about it. I did take my book there to know the age of my son; and I did on that occasion look into that book, in order to be certain what time my son was born.

Q. If you had a son born the 10th of the month, and

Q. Is that the reason, that you are certain he was born at that time?

I am very certain, he was born then.

I am a protestant. There are two entries more before that son.

Q. Is there any entry after?

No; for three were christened in my own house, and booked in my bible: the two others christened in the church, and booked there.

Cross examination by Mr. Recorder.

Q. How long before the 10th did lord Anglesey come?

He came the 5th or 6th of September to the Park.

Q. Have you bought any timber out of Camolin wood lately?

I did not.

Examined by the Lords.

Q. What was the park keeper's name, who was godfather?

Billy Coxon.

Q. What do you mean by a band?

Such a thing as that (*pointing to one of the bishops*)

I am very certain, this gentleman wore a band. I saw him after, when I went with meal; he had a black coat on, but no gown; and had a band on him there.

Q. What was the name of that son born the 10th?

James.

Q. How old is he?

He is 36 last September; my eldest is 33, 34, or 35, I believe; my second son is 32. I was examined in England in the house of lords; but not for that, not to this point.

Q. Why did not you bring your book back with you?

I forgot it.

Q. What religion was your wife?

A protestant.

Q. How long had lord Anglesey been absent at that time?

I cannot tell; I believe, he was absent two months; I cannot tell whether three months. I believe Isaac to be 20 years of age.

Q. Do you recollect any particular event happening at Camolin Park, in the year Isaac was born?

I do not.

Q. If

Q. If any extraordinary event happened there, do not you think, you should have known it?

No. I was not in the mills of Camolin then; I had left the mills: I lived in the parish of Ferns at three miles distance.

Q. Had you an occasion often to go during that to the house of Camolin?

No; I had no occasion.

One child was christened in Ferns; the other in Rossmanoge; the three eldest sons were christened in my house; were booked in my bible. The youngest of those three eldest sons was James, and he was born the 10th of September; I entered in the bible the day of the birth.

Q. Was it their birth or christening was entered in the church? the book kept by the clerk?

It was the birth of the son, that was entered in the book, to be sure: it was the birth, and not the day of the christening, that I entered. I did not enter them in the bible, because they were entered in the church book.

Q. Were the entries in your book made immediately after the birth of each, or all at once?

No; they were all put down at separate times.

Die Sabbati, 9 May, 1772.

Lord RANELAGH in the chair.

Council called in.

10th witness, John Cabil.

(Council for the petitioner John said, they had no witnesses to controvert the fact of lord Anglesey's being in Ireland at Camolin in 1741.)

Q. DID you know the late lord Anglesey?

Yes.

Q. Did you see him in Ross about 30 years ago?

I did: it was in September; 30 years last September. I lived with Mr. William Napper at that time. I did lead lord Anglesey in a chair from Ross to Camolin Park

Q. What was it you entered in your family bible; the birth or christening of your three children?

The birth. I entered the birth separately; but it was entered, when they were christened, and then I entered, when they were born. I did not make another entry of the christening.

Q. Was it you yourself, that made the entries in the book?

No; it was a clerk, that came with the minister to christen the child.

Cross examination by Mr. Kelly.

Q. Did you not make an affidavit in England, and swear you saw lord Anglesey ride a white horse?

I made an affidavit in England; I never swore in that affidavit, that I saw lord Anglesey come on a white horse: no, I never did.

Q. In what year was your eldest son born?

I cannot tell indeed; I cannot remember; he was born in March. My eldest son was not my first child; I had a daughter before him.

Q. In what year was she born?

She is 39 years of age.

Adjourned till to-morrow.

at that time; it was captain Sutton's chair, and his chair horse.

Q. Where in Ross did you take up lord Anglesey?

At Mr. Ben. Batt's door.

Q. Did you take up another person besides?

I did.

Q. How was he dressed?

In black, with a short cravat or band, I cannot tell which, about his neck, with a big hat half cocked on him. His coat was black: a black great coat, and a black body coat. I did not know his name at that time. Afterwards I heard his name was one Mr. Neil; from his dress I took him to be a

R

clergyman,

clergyman. This was on a Saturday; I got to Camolin that very day. I returned to Rofs Tuesday following. The reason of my delay was, lord Anglesey desired me to stay, 'till he killed a deer, to send some venison home to Rofs. Monday was a wet day; the deer was killed on Tuesday Morning, it was cut up in quarters, and packed up in the chair for me to take home. Mrs. Napper and Mr. Sutton got some of it; and to the best of my knowledge Mr. Batt got some. I passed through Enniscorthy on my return, and there was a fair held that day there.

Cross examined by Mr. Kelly.

Q. Have you seen any protestant clergy-men two years ago?

Yes. I have seen archdeacon Naylor.

Q. Had he a band on him?

He had sometimes, sometimes not.

Q. Had he a band on him the last day you saw him?

I cannot say, whether he had; sometimes I saw a band on him sometimes not.

Q. Have you often drove other persons in a chair?

I have often.

Q. Can you name the time or month, when you drove any other person?

No, I cannot.

Council for lord Valentia.

Q. Did you drive other persons besides your master and mistress?

I did. I do not know, what year it was.

Q. Do you remember, that at the time you drove this chair, was any ship in the river in Rofs at that time?

There was. They called it a yatch.

Q. What was the occasion of its coming?

I heard my master and a great many more say, lord Anglesey came on board it. I cannot say, whether any body else came.

Q. Have you any reason to be particular as to the day?

I have, which is this. I returned on Tuesday the fair day, which was held the eighth of September, called lady day in my country. I drove through the fair.

Examined by the Lords.

I cannot write or read.

Enniscorthy is not the straight road to Camolin from Rofs.

Q. Then for what reason did you go round?

The rain, that fell on Monday, raised a flood in the Slaney, that I was to go through, and I was afraid, I should be overset.

I saw one glimpse of this yatch, and that was all.

I only passed by it, but heard on my return, that they came on board, and that it was a very pretty yatch.

I am a roman catholick; I staid at lord Anglesey's house Sunday and Monday; I did not stay at the house all day, I went to Camolin to drink.

I am of no trade.

Jane Batt called again.

A book produced to her.

This is the book, I mentioned, that the two entries are in, as to the pilotage the yatch, and as to the beef.

She read the first entry.

"Paid Abel Snow for piloting the ship by Mr. Thompson's order."

There was no ship at the time but the yatch; that is, no ship that my father had any connection with but this. There might be other ships in the river. Snow was the pilot. This beef was sent on board that ship for provisions.

My father was very irregular in accounts; some times wrote large, sometimes small, and with what ever ink he met in his way.

She reads the second entry.

"Fourth September, beef three carcasses, and horse hire, nine pounds two shillings."

That is for horse hire to carry down to the quay.

Q. How long did lord Anglesey stay in Rofs after he landed?

A very short time I believe. I cannot say, he went the day, he landed: but I suppose, he did not.

Q. Do you know, what became of this yatch, after lord Anglesey left Rofs?

I cannot say; I heard, she was taken away and sold, I cannot tell where.

Council

Council for Lord Valentia.

Lord Anglesey sailed from Bray and returned to Ross.

Eleventh witness, Anthony Ryan.

I did know Nixon Donovan, he was the present lady Anglesey's brother; I first knew him, when he was a small boy ten or eleven years old, I suppose; I am not sure what age directly. I knew him all along afterwards, 'till a little before he died, that I had not seen him some time before he died. I knew him in 1741; I was in a regiment at that time, in the green horse; he was in the same regiment and troop at that time. I was from the same neighbourhood of the country, that he was.

Q. Had you had the same master at any time to instruct you?

Yes. We went to school to one master in Camolin.

Q. Had he left the regiment, before he died?

Yes. He left it the latter end of August 1741; he came on furlow.

Q. What was the reason of it?

He wanted to come and see his friends, I suppose; his reason I cannot tell. It was the first furlow, he ever got. He told me, he was to come down to see his friends in that country, and to come to Camolin.

Q. What Road did he take?

I do not know; he came the road leading from Athy towards Carlow, which was the direct road to that part of the country; and I came part of the road with him, about a mile.

Q. Did you ever see him, after you parted from him on the road?

Never.

Q. When did you first hear of his death afterwards?

Between that and Christmas. I came home on furlow myself about three weeks before Christmas; he had died before that, for I had got an account at home, that he had died, and never heard he had died 'till I came home. It was the general reputation of the neighbourhood and family, that he was dead at that time. It was certainly so reputed.

Q. What did you go to learn to the same master?

To learn to write and cypher a little; both at the same time, at one time.

Q. How long had you been together with this master?

I believe in all about a year and a half. I very often saw Nixon Donovan write during the time; we were together at school. I saw him write very often, and also during the time we were in the regiment together. Saw him write several times when in the regiment. Was very well acquainted with his hand writing.

The certificate of 1741, produced to the witness.

Look at the name Nixon Donovan, subscribed to that paper.

I want to look at the back of of it.

I do see the name Nixon Donovan to it; and I do verily believe, that name was wrote by him.

The witness was desired to read the name which he did after some time, and said he could not see well without spectacles.

He did not write any other part of this paper.

I did know James Darcy, he was not in the regiment; I knew him in our neighbourhood all my life.

Cross examination by Mr. Kelly.

The witness was desired to read the certificate.

I cannot say, that I can read it all. I cannot read it very well.

Spectacles were given to him.

I have made use of spectacles some few times. I was examined before the lords, I had not spectacles there; but I got a sickness; and my sight failed since.

Q. Do you recollect, what you swore before the lords?

I do.

Q. Was it in the beginning or end of August 1741?

I am certain, it was the latter end of August, and I never saw him after.

Q. Did not you swear, that you saw him write ten weeks before his death?

I did swear that.

Q. Do you say the same thing now?

I do.

Q. On

Q. On what occasion did you see him write ten weeks before ?

A song that one of the troopers delivered to him by word of mouth.

Q. What song ?

I cannot recollect.

Q. Did not you hear him singing it very often ?

I did not. I cannot recollect what a song was that, I heard so long ago.

Q. Did you see him write his name ten weeks before his death ?

I cannot say, I saw him write his name ten weeks before, but I saw him write other writing. I saw him often write his name to his copy at school.

Q. Did you see him write his name in the regiment ?

I did not see him write his name to the regiment. I did not see him write his name while in the regiment, but I saw him write.

Q. Did you ever see him write his name, and to what paper, from the time he left school ?

I did not see him writing, until I saw him write in the regiment.

Q. Did you ever see him write his name in the regiment ?

I saw him write in the regiment several times.

Q. Did you ever see him write his name, after he left school, and to what paper ?

I cannot say, I did see him write his name, after he left school, tho' I saw him write.

Q. Did you ever see him write any other thing, after he left school, except a song ?

I do not know any other writing after he left school, but the song ; for he went into the army soon after he left school.

Q. What time did he leave school ?

He and I were at school in 1737, and continued at school till 1738 ; we both parted the school much at one time.

Q. Who was the captain in your troop at that time ?

One Tennison. It was he gave the furlow to Nixon Donovan.

Q. What was his christian name ?

I do not know.

Q. When he was writing this song, did you look over him ?

I was looking at him ; I was not very far from him.

Q. Was not you at the same side of the table with him, or was it opposite to him ?

I was looking at him, and do not know, whether it was one side or the other : I was

well acquainted with his hand writing before the song.

Q. Did you take particular notice of his manner of writing that song ?

He wrote that song no other way, than the way he wrote always : I think, he wrote it, as he always was used to write.

Q. Did you take the song in your hand, and look at it ?

I did.

Q. Did you read it ?

No, not much of it ; and if I did itself, I forget it : I read some of it ?

Q. Why did not you read the whole, when you had the curiosity to read part ? Was it because you did not like it, so far as you went ?

I did not read the whole.

Q. When that paper was produced to you just now, what was the reason, you first looked on the back of it ?

There was an A and an R on the back of it.

Q. Was not it to be sure, it was the paper, that was produced to you before the Lords in England ? Was not that the reason ?

Yes, it was.

Q. Could not you be as sure of it by looking on the name Nixon Donovan to it, as by looking at the back of it ?

I could.

Q. Do you know, who were your other school fellows, when you were together ?

I do.

Q. Name one or two ?

I will name two, now alive in the county of Wexford, John Plummer, and Tom Inman.

Q. Were they learning to write too ?

They were.

Q. Can you swear to their hand writings now ?

I could go very close on Plummer's hand writing ; but I was longer at school with Mr. Donovan, than I was with either of them.

Q. Can you now swear to the hand writing of them, or either.

I cannot say, that I could swear to their hands : I was better acquainted with Donovan's. I had some of Donovan's writing for fifteen or sixteen years, after he died, in a copy book of mine that I wrote at school.

That copy book was kept in my father's house ; it was a fair-book, that I made at school ; he wrote some times in it, as I wrote in his.

Q. Did

Q. Did you read that, that was wrote by Nixon Donovan.

Several times ; I read it sometimes. I cannot say, I read it all along those fifteen or sixteen years.

Q. When last did you read it ?

I cannot tell.

Q. Can you tell any one year, that you read it, for the fifteen years ?

I cannot recollect.

Q. Was there any thing wrote material in that copy book, or what was it ?

It was a copy book, that we call a fair book. It was the last copy, that ever I wrote at school, and the master laid down some things ; all the little learning, that I went over, was laid down in that book one after the other in figures.

Q. Did the book remain in your father's house, fifteen years after you left school ?

It did.

Q. What did you mean by all the little learning ?

It was the book, the master made to instruct me, to refresh my memory with respect to my learning.

Q. How long was you from home those fifteen years ?

I did not stay long in the regiment, nor in the service ; I was not twelve months in it, and was at home all the rest of the time. The book was at home, in my father's house. I did not bring it to the regiment.

Q. Was there any thing more than a common leaf over it, or a vellum cover over it ?

Nothing more than a common leaf. It is long ago demolished.

Q. Was it preserved carefully the fifteen years ?

It was along with other papers in the Desk.

Q. Mention any particular words, wrote by Nixon Donovan in that book.

There was his name wrote in it, and several things, I cannot say the particulars here ; I cannot keep an almanack in my head. I cannot tell any particular words, he wrote in it, except his name.

Q. Is that book the reason, that you can so well recollect now his hand writing ?

It was a help to it.

Q. If it had not been for that book, do you think, you could at thirty four years distance swear to his hand writing ?

I do not know could I.

Q. What do you think ?

Indeed, I believe, I could not.

Q. Did you or he write the best hand ?

They were very much like one another, for they were neither of them good ; I know not which of us wrote best.

Q. Were your hand writings pretty like each other ?

They were.

Q. Do you mean likeness in the character ?

The way, we wrote, was like each other.

Q. Were the letters, the shape of the letters, alike ?

Very much.

Q. Do you mean, that he wrote as bad as you ; or do you mean, there was a great resemblance in the letters ?

Yes, that is what, I meant.

(A paper was shewn to the witness, with the name Nixon Donnellan, which he read, but pronounced Dannellan.)

He was desired to write his own name, and said, his hand shook so, he believed, he could not write at all. He wrote his name after some time. Was then desired to write Nixon Donovan, he wrote Nixon Donovm.)

Q. Have you about you any letters or papers of your own hand ?

No.

Q. Have you any in Dublin ?

No.

Q. Did you ever receive letters from Nixon Donovan.

Very often. I have not any of them to produce. I never did receive a letter from him. I did not understand the question before.

Cross examination, by the Recorder.

Q. What was your schoolmaster's name ?

Thomas Taylor.

Q. Where did Nixon Donovan's parents live in August 1741 ?

His mother lived in Camolin, I think.

Q. Where does Plummer live ?

Near Camolin, at Milesbow. He is living there now. He was well in his health, when I came to this town. Inman lives near Gorey.

Q. Are they persons of some property ?

Yes, they are middling farmers ; they do keep horses and cows, and a good deal, some of them.

S

Q. Do

Q. Do not you believe, they are rather in better circumstances than yourself?

A great deal.

Q. Are any other of your school fellows now in Dublin?

Not as I know: I do not think there is.

Q. Who are you tenant to?

One Derensy: Lord Valentia is the principal landlord.

Q. When did you first see that certificate?

I cannot tell certainly, when I seen it first. I think I seen it six or seven years ago: I am sure of that, if I did not see it before.

Q. How long before?

I am not certain; but it was thereabout.

Q. Is not it, since lord Anglesey's death, you first saw it?

I believe it was.

Q. Did you learn to write from any other master, before you went to that school?

Never: I first learned to write there.

Q. Did Nixon Donovan learn to write from any other before?

I cannot tell: I believe, we begun pretty much at the same time. I do not know, that he learned from any other master: I am not sure; he might have gone to school.

Q. Do not you believe, he never was at any other school before?

It was there he begun, because the school was so near his father. Whether he went to any other. We were at school, when we were little boys together.

Q. How long did you learn to write together?

About a year and a half.

Examined for Lord Valentia.

Q. Did you make an affidavit as to Donovan's hand writing to that certificate?

I did.

Q. Upon what occasion? Was it on the dispute about this peerage?

It was. It was at the time, I made that affidavit, that I saw that certificate.

Q. Did you, when you made that affidavit, examine the hand writing of the name Nixon Donovan?

I did.

Q. Was you on your examination at that time satisfied, this was the hand writing of Nixon Donovan, or not?

I was.

Q. How long is it, since you was examined before the Lords as to this hand writing?

Almost two years, about the middle of this month. I did then examine it carefully, and was then satisfied, it was his hand writing.

Q. Since you were examined before the Lords, what was that sickness, you say, you had?

I cannot tell what it was, but it lay very much in my head, and my eye sight failed since. I do not know but it was a fever.

Q. Is there any difference between your hand writing now from what it was thirty years ago?

Yes, I could write a little better then, than what I could now.

Examined by the Lords.

Q. What was contained in that copy book, that you said, you kept a considerable time?

There was all the little learning from Addition of money and so forth, as far as I went, and from that to the Rule of Three. so far as I went. I cannot tell, what became of it for it was, from time to time broken and dispersed. It is about fifteen or sixteen years ago, since I saw that book. There was a great deal of that book wrote by the master, and some of it writing of my own.

Q. What was the reason for preserving it?

It is a common thing for school boys to make a fair book, when they leave school, to refresh their mind as to learning; that was the reason, I preserved it.

Q. Do you use spectacles now?

Sometimes, unless it was a very large print or the like: I could not read without: I did not bring spectacles with me. My master is dead this great while, thirty one or thirty two years: I believe, it is near thirty years; I am not sure how long.

Q. Do you generally write memorandums in your family, or about your own affairs?

I write very little; I have those, that can write better, in my family. I believe, there might be other peoples hand writing in that book, besides Nixon Donovan's. I remember Tom Inman to write in it; the master wrote some of it.

Q. Who was the person, first produced that paper to you with the name Nixon Donovan?

Mr. Whyte an attorney in Dublin.

Q. Whose attorney?

He was concerned for lord Anglesey.

Q. Was

Q. Was the name turn'd down, that you could see no part but that name, or the whole certificate?

The whole was produced to me together.

Q. Was you told at that time by Mr. Whyte the purport and tendency of that paper?

I think I was.

Q. Could you know the hand writing of your master Taylor, if you was now to see it?

I believe, I should.

Q. How old was you, when you learned to write with Nixon Donovan?

I believe, seventeen, eighteen, or nineteen, between that and twenty, I believe I was. I did not go into the army 'till the beginning of August 1741. I was not over a week in the regiment with Donovan, when he came away on furlow: the time of the furlow was the latter end of August, I cannot say, what day; I was somewhat older than he.

Q. What was the private mark on the back of the paper, that you said you knew it by? When was that mark fixed there?

It was an A and an R, I wrote it myself in Dublin, and in the presence of Mark Whyte. I was examined before the Lords in England.

Q. Did you tell them any thing of this copy book?

I do not know, whether I did or no.

Q. Do you believe, you did or not?

I cannot say; I do not know, whether I did or no.

12th witness, James Darcy.

Q. Did you know Nixon Donovan?

I did; I have been acquainted with him these 30 years; I mean 30 years ago, and until he died. I have been acquainted with him since he was a child, and 'till he died; except a little time when he was in the army. I had no correspondence with him, when in the army. He is dead this great while; I cannot tell how long, he died I believe in 1740; I think so, I cannot justly say: I believe, he is dead about twenty years or there away.

Q. Recollect yourself; did you ever go to school with a man of that name?

I did, in 1733.

Q. How long was you at school with him?

About a quarter of a year: The master's name was Thomas Taylor; he lived at Camolin. I did see Nixon Donovan write; am acquainted with his hand writing, I have seen him write several times; he wrote at one table with me, when at school a second time, for I went a second time to school, when I was a young man, to be improved in accounts. The second time was in 1733. I have been older than he. The first time I was not at school with him. Never was at school with him more than once, but I was twice at school.

Q. Can you recollect the name of any other at school with you?

There were several boys at school.

Q. Do you know one of the name of Anthony Ryan?

Yes.

Q. Would you know the name, Nixon Donovan, if you saw it now?

I think I should.

(The paper produced to him, the name only shewn.)

I believe, that is Nixon Donovan's hand writing: To the best of my knowledge, it is; it is very like it. I do not know. I cannot positively say. I seen a perfect certificate in London, that was not like that. There is nothing there, but one line. I saw nothing like this bit of paper in London.

Council for lord Valentia said, it is the constant course in courts of justice to produce the paper to the witness without concealing any part; and they only produced him, to prove the hand writing to that paper.

The name Nixon Donovan was produced to the witness, every other part being covered.

Q. Do you believe that to be the hand writing of Nixon Donovan, or not?

I am quite astray at it. I cannot say.

Cross examined by Mr. Hussy.

I was examined before the Lords in England.

On what occasion?

On this very same occasion.

Q. Did

Q. Did you swear there to the hand writing of Nixon Donovan?

I did, and to the hand writing of Charles Kavanagh.

Q. To what paper were those names signed?

To a certificate.

Q. What was the purport of that certificate?

It was dated in 1741. They let me see nothing but the hand writing of two subscribing witnesses, and the clergyman's hand writing. I believe, that was a certificate of the marriage of lord Anglesey to his present lady, the present lady Anglesey.

Q. In what year?

In 1741.

Cross examination by the Recorder.

Q. Was not Anthony Ryan at school at the same time with you?

He continued with Nixon Donovan, after I parted the school: He was not at school in my time.

Examined by the Lords.

Q. You say, you swore to those two names before the Lords?

I did.

Q. Did you believe it in your conscience at that time?

I did, and do still.

Q. What reason had you then to swear to the name of Nixon Donovan, and not now to the name?

If I could see the paper.

Q. What light would that paper give you? If you saw that paper, would you swear it to be the name, because you swore it there? Or would you swear it from the similitude of hands?

I should know it, by what I saw before. I should know the whole certificate: I saw the whole certificate in full.

Q. What was the reason, you swore, those names were the names of those persons; was it from a similitude of hands, or because you saw them at the bottom?

No; I was acquainted with the hand writing; and I believed, it was the hand writing.

Q. If Nixon Donovan had wrote his name to any paper, should you know it on seeing that name?

I think, I should.

Q. Suppose nothing but his name written on this paper now in my hand, not the other paper, written by himself, should you know him?

I think, I should. I think, I should have no doubt about it, to the best of my memory.

Q. Do you think, you should be astray about pronouncing upon it?

I do not think, I should. I saw that paper, before I was examined; I saw it the same week. I did not put any mark or any thing on the back of it; I should know it again. There was the minister's name, that solemnized the marriage, and a seal and the two subscribing names at the bottom. I should give a narrow guess to the hand writing of that man. I did see the whole certificate at once in London; I did not read it all then; I saw only the names. I was not allowed to read it all; but I read some of it; it was whipt out my hand. The paper, I saw, was fractured in the top, where there is a fold; no other fracture. It was some of the lawyers shewed it me; I do not know, who he was. I never saw the paper before in Ireland. I never saw it, 'till I went to England. I was not examined to any other point.

Q. How came any one to know you could prove it?

Because I told, that I could do it, and that I was acquainted with the hand writing; but had not the paper shewn 'till in London. I went to England to be examined as a witness, and to prove these hand writings.

Q. And was you carried to England without being shewn the hand writings, you was to prove?

To my knowledge I did not see that paper, before I went to England?

Q. If you was to see the whole paper now, do you think, you could swear to the hand writing of the two witnesses?

I think, I could.

Q. Suppose the writing shewed you was really affixed to the bottom of that paper, you saw in England, can you swear, that name, you saw just now, was Nixon Donovan's hand?

It is very like it, but I cannot swear positively.

Q. Suppose, that paper should be taken off, and it should appear, that name was at the bottom of the certificate, what reason could you then have, more than you have now?

It is not like the paper at all, that I saw in London. The hand writing of that name is very

very like what I saw in London ; but that is not like the paper, I saw in London.

Q. Are you so well acquainted with the hand writing of Nixon Donovan, that you could swear to it affixed to any paper, to which you saw it?

Yes I could to the best of my knowledge.

Q. Then do you believe, that name Nixon Donovan, affixed to that paper, is or is not his hand writing?

It is as like it, as any thing I ever saw.

The witness withdrew with the deputy usher, that nobody might speak with him, while the paper was prepared; and the name of Charles Kavanagh only was shewn to him.

I did see Charles Kavanagh, and am acquainted with his hand writing; he is dead; this is his hand writing; I believe, I saw him write at Camolin in lord Anglesey's house very often. I served his servants with goods, and he was his house steward, and I have seen him write very often; he had a difference some times in his hand writing: he has told me himself, what gave occasion to it, that he had rheumatic cramps in his fingers; and if he was after taking a glass over night, that it made a difference in his hand next morning.

The name Nixon Donovan was shewn to the witness, and he was desired to examine it carefully.

Q. Is that like the hand writing of Nixon Donovan, or not?

I believe, it is the hand writing; I did not perceive it so nearly, as what I do now.

Die Sabbati, 11 May, 1772.

LORD RANELAGH in the chair.

Council called in.

13th witness called, Patrick Byrne.

I was acquainted with Charles Kavanagh; he is dead, I believe.

Q. Are you acquainted with his hand writing.

The whole certificate of 1741 was shewn to the witness.

Q. Are those two signatures, you see, Charles Kavanagh and Nixon Donovan, the signatures to the original certificate, or no?

I believe so; and because I looked more narrowly; I was universally acquainted with his hand writing in every shape, he wrote, I believe, he was sober, when he wrote that; I do not know, whether he took a cup the night before. I was familiar with his hand, and know it by a cast of my eyes; this, I believe, is as good, as any that he wrote: the man wrote well at some times.

Q. If you had seen the whole paper, you saw in London, would you have hesitated at all about it?

I think, I should not.

The whole paper given into the hands of the witness.

This was the certificate, I saw in London. The names signed to that certificate are the hand writings of those two men, I believe. I cannot tell, when Charles Kavanagh died; I did not know him for a year, before he died; it is about 20 or 21 years. I saw him write about two years before his death at lord Anglesey's, or something less. Very shortly before he went away, I saw him write. I left school in 1733, and was not at school with Donovan after that time. Ryan was not at school, while I was there, but he was after. I saw Donovan's hand writing every day in copy books; he did not write pretty well then. I cannot say, I have seen him write since 1733. I never got a letter from him to my knowledge.

I think, I am; I have seen him write frequently for three years. He kept an account between the late lord Anglesey and me for 2 or 3 years.

Q. What was the nature of the dealing between lord Anglesey and you?

T,

My

My father and I in 1738 manufactured a wood for him; and Charles Kavanagh was house steward and manager for him. There were tickets given on that occasion; for lord Anglesey would not sell the bark for the price going, and kept the bark on hands for a year and a half. Bark is a perishable commodity; and in grinding the bark he was obliged to discharge the mill, and to give tickets for every week. I have got the tickets from Charles Kavanagh; his name was signed to those tickets. I was thoroughly acquainted with Charles Kavanagh from 1738 to 1746.

Q. How long did this dealing continue?

Three years and an half.

Q. Did you go over to England to be examined relative to the title of Anglesey.

I did; but was not examined.

Q. What was the reason?

The reason, that Mr. Hamersly gave me, was, that lord Mansfield said, there were enough examined; that the hand writing was proved very well: and therefore I was not examined.

Charles Kavanagh wrote very variously.

Q. What was the reason of it?

The greatest reason, I suspect, was, that when he took a glass over night, his hand would shake; and he was fond of taking drams in the morning, which made it shake; I knew it, for I kept him company many a day.

I did see a certificate of the marriage of lady Anglesey to lord Anglesey.

Q. Where?

In the parliament office in London last March was 12 months.

The name only shewn to the witness.

I believe this to be the hand writing of Charles Kavanagh.

The whole certificate shewn to him.

I did see this paper before in London; never saw it since 'till now. I do believe, the name Charles Kavanagh there is his hand writing; I do not believe, any other part of that paper is. I think, the name now shewn to me is like the other shewn to me before; I think it is the same.

Q. Which do you think most like the writing of Charles Kavanagh, this or that you saw before?

I think, it is the very same.

Cross examination.

What did Mr. Hamersly tell you?

That lord Mansfield said, that the certificate was enough proved; that the hand writing to the certificate Charles Kavanagh's and Nixon Donovan's were sufficiently proved.

Q. Who was Mr. Hamersly?

Attorney for lord Valentia, as I thought, at that time, and believe it to be so.

Q. At what time did Mr. Hamersly tell you so?

It was some day in March; I cannot say exactly what day: it was last March twelve month.

Charles Kavanagh did write differently at different times. Differently when he drank; he wrote better when he was sober. He was not frequently in liquor.

Q. Did he usually transact business when in liquor?

He did very often transact business when in liquor.

That signing to the paper, I saw just now, is partly his worst writing.

I do know James Darcy; I saw him not ten minutes ago, just before I came into the house.

Q. Did he tell you, he was examined?

He did not, but I knew it, for I was here in the house a Saturday. I was not present, when he was examined.

Q. Did you hear, he did not answer as well, as was expected from him.

I heard, he did not answer, as he ought to do.

Q. Did you ever put any mark on that certificate?

No, I did not.

Q. Will you take upon you to say, no part of it is Kavanagh's hand writing but that?

To the best of my knowledge there is not.

Q. Did you see one Mr. Ianns write?

I did.

Q. Do you not lodge in the same house with Darcy?

I do not.

Q. Did you make an affidavit before the attorney general.

I never did. I never did make any affidavit as to Charles Kavanagh's writing.

On the part of Richard Annesley, exhibits produced to the witness.

No. 1.

I believe this to be the hand writing of Charles Kavanagh.

No. 2.

The name only shown.

I believe that to be his hand writing.

No. 3.

Shown where the name was twice signed.

I believe that to be the same.

No. 4.

I believe that to be his hand.

Q. Did you know James Whyte, father of Hawtry Whyte?

I did; he was an agent for lord Anglesey, a good while received his rents; I believe, he is dead.

I do deal in woods.

Q. Was not you some way concerned in the purchase of some woods, lately sold by lord Valentia?

I am.

Q. Are not you indebted to lord Valentia for those woods?

I am indebted to pay by gales. We are to pay 1200l. a year, till 8800l. is paid; but we paid 1800l. in hand at the beginning.

Q. Have you partners in it?

Yes. John Revel, William Johnston, Robert Graham.

Q. Have not you and those other persons joined in a bond to pay by instalments?

We did.

On the part of lord Valentia an exhibit shown to the witness, that has not been produced in any other place.

This is very like his hand.

I believe it to be his hand, but there is a turn here, that he was not very much used to.

Another exhibit shown.

I do believe this to be his hand also.

They were marked A and B.

Fourteenth witness, Hugh Carmichael.

Q. Did you know Elizabeth Knight in London?

I recollect, that when I was at the temple, I lodged at Mr. McAvoy's in Suffolk street, and saw Elizabeth Knight several times there.

I remember very well the occasion of her coming there, and my being acquainted with her, that Mrs. Smyth, the widow of Mr. Smyth who was king's council, came to me, that I might make application to lord Bowes in order to her obtaining concordatum money for Mr. Smyth's attending at Kilmaham sessions, and she came with Mrs. Smyth, for I understood, she was sister of Mrs. Smyth, and I saw her there several times after. I remember her coming there to play cards sometimes.

Q. Did she ever speak to you about Richard Annesley, lord Altham?

I cannot recollect, that ever she did, for if she had, I must have given her some answer.

Q. Would it have made any impression on you?

It would have made an impression on me, for this reason, I certainly at that time did know Mr. Annesley, because he had been introduced to me by Mr. Batt, who lived in Ross, and the accommodation being bad between Kilkenny and Ross, Mr. Batt gave me an invitation to lodge upon circuit at his house, and either in 1758 or 1759 I saw Mr. Richard Annesley, he went to school, and a son of Mr. Perry's. Before supper Mr. Batt introduced him to me as the son of lord Anglesey, and a Miss Salkeld, I think. And I recollect very well, that at that time I said, he did not by any means wrong his father, for that he was very like lord Anglesey, whoever was his mother. And if Mrs. Knight had asked me any question relative to Mr. Annesley, I should not have answered her in the negative, as that matter struck me, and I should certainly have mentioned some thing of it to Mrs. Knight.

Q. How long was it before this conversation with Mrs. Knight, that you saw Mr. Annesley?

It was after my seeing Mr. Annesley, that I saw Knight, for I was obliged to return from the temple, and go on the circuits; and it was the very first circuit, I think, I ever

ever went, which was in 1758, or the beginning of 1759, but, I believe, it was in summer 1758. I believe, it was the next summer that I saw Knight. It was after I had seen Richard Annesley, that I saw Knight. If she had spoke to me about Richard Annesley, I should have given her information.

Q. Did you ever hear her or any other talk of a lord Altham in the life of lord Anglesey?

Never, to my knowledge.

Cross examination for Richard Annisley, by
Mr. Wallace.

Q. How many years did you know Mrs. Knight?

I believe, I had seen her for two or three years; for I used to come from the Temple in the vacations, and go circuit, and sometimes did not keep some of the terms; for I attended at London near five years, before I kept my terms.

Q. How long did you know Mrs. Knight, or live in a degree of acquaintance with her?

I cannot say, but that I have frequently
 seen her at Mr. McAvoy's, and Mrs. Knight
 had a house just opposite to McAvoy's, and
 used to come there to visit with Mrs. Nuttal,
 a daughter of doctor Ellis, whose family I
 knew at Monaghan, who lodged in Knight's
 house; and I have seen them frequently play-
 ing cards, for I was very domestick.

Q. Was not Mrs Knight regarded all that time as a woman of honour and character?

I never heard to the contrary; and do not believe, Mrs. Nuttal or Mrs. Smyth would have lived with her, if she had not been a woman of reputation. Mr. and Mrs. McAvoy were under great obligations to me, and would not have permitted me to have kept her company, nor have introduced her to me if she had not been of character.

Q. Would Mr. and Mrs. McAvoy have kept company with her, if she had not been a woman of character?

I do not know, but I do not believe, they would.

Q. Were not Mr. and Mrs. McAvoy people of consideration and good credit?

It always understood so, and many gentlemen of figure and fortune lodged in that house. The provost, and several gentlemen of the bar, lodged there.

Q. Was not your birth and your connections with the northern parts of Ireland principally?

Yes.

Q. Was not the residence of Richard An-
hony in the southern parts?

Undoubtedly it was.

Q. What profession are you of?

I am a barrister: Before I was called to the bar, I was used to transact business, the business of an attorney, twelve years before I was called to the bar.

Q. While you resided in England, were not many applications made to you by your Irish acquaintance, and inquiries made?

I believe not ; for before I had gone to the Temple, I had given up to my nephew my office, and had quitted it several years before.

Q. Do not you think it probable, several questions might have been asked of you, which at this distance of time you do not recollect?

Certainly there might, and if Mrs. Knight had applied to me about that business, I might have thought it an impertinent inquiry, and given her a short answer to get rid of her; but do not recollect she did.

Examined by the Lords.

Q. Do you know, whether Mr. Sibthorp lodged there?

I do not recollect seeing him there. I do not recollect, that he was in London at the time; he was not at the temple in my time. I never knew Richard Annesley, 'till I was introduced to him by Mr. Batt at Rofs.

Q. If Mrs. Knight had asked you after Richard Annesley, before you had seen him at Ross, what would have been your answer?

I certainly would have answered, that I knew nothing at all about him.

Q. If an inquiry had been made of you, before you had seen him at Ross, would it have made much impression?

I believe, not at all. I believe, it would not have made an impression on me.

Q. Can you be very sure, at what time your first acquaintance commenced with Mrs. Knight?

I cannot be very sure as to the time ; but what makes me believe, it was soon after I went circuit. First is, that Mrs. Smyth hearing I was in London, and knowing I had

been often at her husband's house in Golden-lane; and thinking, that I might have been of service with lord Bowes, came to me very soon after I came to London.

Q. Can you be sure, whether your acquaintance with Knight commenced, before Richard was introduced to you at Ross?

I cannot at this distance: I believe, it was in summer 1758, the first circuit I ever went, or in spring 1759, that Richard was introduced to me. I had been in London before that, for I was obliged to attend a solicitation, for I had met with some obstruction in procuring my patent. I was in 1755 and 1757 in London. I never lodged in any other house in London but McAvoy's, except once at one Quinn's, bottle-groom to His Majesty, next door where McAvoy placed me, 'till a gentleman left my lodgings. I believe, I went first in 1755, and that was the year, I believe, I had my name entered in the Temple, but did not attend constantly the terms 'till a considerable time after.

Q. How long since you was in England last?

Not since 1761, I believe. I cannot recollect, when I saw her first at McAvoy's, or at what different times; but I did see her several times there. I do not doubt, but it might have been the several times, I was in England. I knew, she had a house in the same street, and knew, she was sister of Mrs. Smyth. I paid McAvoy even for the time I lodged at Quinn's, it was so short a time.

I do not recollect, that I ever heard lord Altham mentioned to me by any person. I had very little knowledge of the family. If she had asked me by the name of lord Altham, I believe, it would have made an impression on me; I cannot say with certainty.

15th witness, George Neil.

I did know the reverend Lawrence Neil. He is dead: He was an uncle of mine; he died, I think, in 1760. I was at his funeral. I did see him write; I am well acquainted with his hand writing, I think.

Q. Did Lawrence Neil give you instruction, and of what kind?

I learned Latin from him, six months before he died.

The certificate shown to the witness.

Q. Look at the name Lawrence Neil, subscribed to that paper writing?

I do believe, it is his hand writing.

Q. Look at the body of it?

I believe it all to be the same hand. I believe, the whole certificate, every word, except the witnesses, to be his hand writing.

Q. Did you ever prove this certificate in another place?

I proved it before the Lords in England.

Q. How old are you?

I will be twenty six next September.

Cross examination by the Recorder.

Q. Under whom do you live now?

Not under any body.

I spell my name, Neil; the certificate is signed the same way, I believe. I do not know, where I was born: I was born in Ireland. Lawrence Neil, I believe, was born in Ireland. He was a clergyman of the Church of England. He had been curate of St. Luke's in Dublin: He was educated in Trinity College. I believe, he had not any real or personal estate; nothing more than what he had by the church. He was incapable of officiating, before I saw him, for he was vastly afflicted with the gout.

Q. Had he any other curacy than St. Luke?

I do not recollect.

16th Witness, Simon Kavanagh.

Q. Have you seen one Mr. Neil a clergyman?

I have. I saw him in 1752 in July or August.

Q. Where did you see him then?

Upon the road between Rathcool and Naas.

Q. Do you remember what day of the week?

I do not, but believe, it was a Sunday, because he told me, he had come from reading prayers and preaching a sermon that day in the neighbouring parish church; and therefore, I believe, it was the sabbath day. I lived at that time in the county of Carlow. I was returning from Dublin, and he overtook me on the road.

Q. Had you any conversation at all about lord Anglesey.

I had.

Q. What was it, or how introduced?

He first asked me my name. I told him, and that I came from Carlow: Then I asked him, and he told me, Neil. He asked me, what news from those countries, as he told me, he was chaplain to lord Anglesey formerly

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merly, and had a great many acquaintances in the counties of Carlow and Wexford. I told him, I heard, lord Anglesey was going to be married; at which he said, he was much surprized, to repeat a ceremony that he had many years before performed himself, when he had married his lordship to miss Donovan at Camolin-park.

Mr. Neil was much surprized, that my Lord should repeat a ceremony, and that he would inquire soon into the cause of the second marriage. That is all the discourse, I had with Mr. Neil upon the subject.

Q. At any time after did you hear, lord Anglesey had been married to any body.

I did; the winter following; I heard it currently about the country.

Q. How soon after that conversation was it?

Four, or five, or six months.

I have an estate in the county of Carlow; it has been for some hundred of years in the family.

Cross examined by Mr. Kelly.

Q. Do you recollect, whether this was in August or July?

It was one or the other: The weather was excessive hot, and I am apt to think, it was in August: The clergyman complained of a violent head-ach from the violence of the heat.

Q. Who was it told you the news of lord Anglesey's going to be married?

I cannot tell; but it was a common report about the country.

Q. Had you ever heard before that of lord Anglesey, or that miss Donovan was a kept mistress of his?

I never did. I did hear, such a lady lived in the house with him, but not in quality of mistress.

Q. In what capacity did you hear she lived in the house?

As a companion, I believe: I did not make much inquiry into it, because I was not acquainted with the family. Mr. Neil said, he had been formerly chaplain.

Q. Did you understand, whether at that time he had any acquaintance with him?

I believe, he had been chaplain, when he had that discourse with me.

Q. Did he say of his being sent to by lord Anglesey to go to his house?

He did not.

Q. Did he say, he was going at that time to lord Anglesey's?

He did not, but said, he would inquire soon into the cause of the second marriage.

Q. Did he go into the county of Wexford to inquire into this?

I heard nothing of his going.

Q. Had he a servant with him at that time?

He had not.

Q. Had he a gown on him?

He had not.

Q. Had he a band?

I believe, he had; he told me, he had come from reading and preaching.

Q. Is that all the reason, you have?

That is all the reason, I can recollect.

Q. Did you know, he was a clergyman, 'till he told you so?

Yes, I could, by the dress he wore: I never had an acquaintance; never saw him before or since that day.

Q. Did not you consider it as a very extraordinary piece of news, that you told him?

I did not: I had no reason to think so.

Q. How came you to tell Mr. Neil of it?

Because he said, he had been chaplain, and asked me the news of that country.

I knew nothing of the family affairs at that time.

Q. Did not you think it extraordinary, that an English earl and an Irish baron should marry a young woman, who was his companion?

No; such things have been done before now.

Q. Did you ever hear at that time, that lord Anglesey had children by miss Donovan?

I never heard it.

Examined by the Lords.

I was not examined in England.

Q. When did you first mention this conversation?

I believe, it was in the country, three or four days after I returned to my own family, and to several in the country. I never did speak of it to lord Anglesey's family, for I had then no acquaintance.

Q. When did you first communicate this to lord Valentia's family?

Lately; about three weeks ago, by meet accident at the assizes of Carlow a gentleman of the county of Wexford told me, lord Valentia's trial was to come on here,

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the 28th of April; and, I believe, I cursorily mentioned the discourse, I had with Mr. Neil formerly: And this gentleman, I suppose, went from the assizes of Carlow to the assizes of Wexford, and communicated the discourse, that passed between us, to lord Valentia's friends; and thereupon I had the honour of receiving a letter from his lordship.

Q. Where do you live?

In the county of Carlow on my own estate, named Rockfavage.

Q. What was that gentleman's name, you mentioned?

Bowman; he lives in the county of Wexford. I never was applied to before that time to give evidence in this cause.

Q. Was you ever asked relative to this before?

It was I mentioned it to Bowman; but I did mention it to several of the county of Wexford, before that assizes that I saw Bowman.

I heard, there was one Kavanagh lived in lord Anglesey's family, but I did not know him.

17th witness, William Coulthurst.

Q. What profession are you of?

An attorney.

Q. Do you know, whether lord Anglesey had any suits from 1741 to 1752?

I was concerned for lord Anglesey as attorney from 1737 to the latter end of 1740 or beginning of 1741, and then he employed another attorney; I believe, Mr. Burroughs was concerned for him in 1741.

Q. Had he any suits at law in 1741?

He had several suits, as I heard. And, as I heard, they continued 'till about 1750 or 1751.

Q. From whom did you receive this information? Was it a general reputation of the courts, or from a particular man?

It was the general reputation of the courts, and I often attended to hear part of them. There were several suits at the suit of different persons against lord Anglesey.

Q. Can you recollect any of the plaintiffs therein?

The first plaintiff was Charles Annesley.

Q. Where was his suit, and what was the subject of it?

In the court of chancery in Ireland to carry into specific execution an agreement

made between lord Anglesey and Charles Annesley.

Q. Who filed the bill for that purpose? and at what time?

Charles Annesley. I believe, that was in 1737, as well as I remember.

Q. What became of that cause?

Mr. Annesley obtained a decree for an execution of that agreement.

Q. In what year was that decree obtained?

To the best of my remembrance it was in 1740.

Q. Was there any appeal from that, and what became of it?

There was; the decree was affirmed by the lords in England in about a year after, I believe; I am not certain.

Q. In consequence of that decree did process issue?

I believe, there did a sequestration against lord Anglesey's estate.

Q. Did that sequestration issue against the whole estate or the part in Ireland?

I cannot say; but believe, it was the whole Irish estate.

Q. What was that agreement?

To the best of my memory that lord Anglesey was to have two thirds of the estate, and Charles Annesley one third.

Q. Did lord Anglesey file a bill relative to that?

He set up a second agreement, and filed a bill to establish that second agreement.

Q. Did lord Anglesey 'till the affirmance of the decree ever perform that agreement in 1737?

I believe, he did not.

Q. Do you know, whether any account was decreed in chancery in Ireland, and of what was that account directed?

I believe, there was an account against lord Anglesey in favour of Charles Annesley of the profits received in the mean time from the time of filing the bill to the decree.

Council for the petitioner John object to this kind of evidence, for that attested copies of the proceedings should be produced.

To which it was answered, That they did not seek to give evidence of a decree, or to take a title under it, but only to establish this; that lord Anglesey was in distress from his law suits, which must from their nature distress more than common law suits; and such a distress as put him

him in the power of Charles Annesley, who was to succeed him in his honours.

Lord Anglesey's being in distress was admitted, and they were permitted to go so far as to ask in general, whether from his knowledge the witness believed, that those suits had a tendency to create a dependance on Charles Annesley.

Q. Were there any suits at law against lord Anglesey?

I believe, there was; an ejectment was brought by James Annesley, who claimed to be the heir of the late lord Altham, brother of the last lord Anglesey. I heard, that some of lord Anglesey's tenants did attorn to James.

Q. Did those suits, that you say continued to 1750 or 1751, put lord Anglesey in the power of any body, and of whom?

I believe, they did in the power of Charles Annesley.

Q. Was there any public trial on that ejectment in 1740?

There was in 1743, as well as I remember. That trial lasted several days.

Q. Are you acquainted with the hand writing of Ann Simpson?

I am.

Q. Did you ever see her write?

I have.

Q. Did you prove a letter dated the 22d of January 1742 from lord Anglesey to Mr. Ianns?

I cannot say, whether I did or no, for I do not remember the dates.

Q. Did you prove any letter from lord Anglesey to Ianns?

I believe, I did.

Q. Look at that paper; do you see the name of Ann Simpson to that paper?

This is not the original paper, it is only a copy.

The original paper shewn to the witness.

This I believe to be the hand writing of Ann Simpson; I do believe it is. William Vernon subscribed to the paper, I believe, is dead; there was a witness examined to it, who proved, that he was dead, but no publication ever was of those depositions.

An attested copy of the will of lord Anglesey, 7th of April 1759, produced to the wit-

ness, which was said to be read in England; council for the petitioner said, that might be by consent, and they could not consent to the reading of it. A paper writing (now marked C) was produced, but not read.

The certificate of 1752 produced to the witness.

Q. Look at the name John Ianns to that paper?

I do see it here; I am very well acquainted with his hand writing; I have seen him write; he is dead. I do believe that name to be his hand writing. John Ianns was dead at the time of the examination by the lords.

Q. Was you acquainted with the hand writing of Walter Devereaux?

I was very well; I have seen him write, and had many letters from him, and do believe that to be his hand writing. I believe, he was living at the time of the examination by the lords.

Q. When did he die?

Last year I believe. I am not acquainted with the hand writing of any other person to that paper.

Q. Do you know, whether the original will of lord Anglesey was produced before the lords?

I do not remember.

Cross examined by Mr. Hufsey.

Q. What estate was lord Anglesey to have in those two thirds?

That I cannot tell; that is matter of law.

Q. Don't you believe, lord Anglesey was by those articles to have an estate for life?

I cannot determine, because it is a matter of the greatest nicety, whether he had or not.

Q. Don't you believe, the court of chancery was of that opinion?

I cannot tell, whether the chancery was of that opinion or not.

Q. Was not it so mentioned in the articles?

There are some clauses in the articles, that contradict that tenancy for life; there is a subsequent clause correcting that tenancy for life.

Q. Is it mentioned in the articles, that he is to be tenant for life of those two thirds?

It is in the beginning of those articles; there is a remainder to the first and every other

other son in tail male. There was a suit to carry those articles into execution, and a decree in consequence.

Q. Did that decree direct, that lord Anglesey should be tenant for life with such remainders?

I do not know; nor can I form a belief of it, for it is several years ago.

Q. Did not you give evidence on your belief as to the subject matter of those suits?

I went so far as to say, it was a decree for a specific execution of that agreement. If I had expected this question, I would have looked into the decree.

Q. Did you ever hear, that it was so?

I have often heard it doubted.

The lords were of opinion, that as to the contents of the decree the decree itself should be produced, that they were not admitted to go into the particulars, only whether the suits were of such a nature as probably to put lord Anglesey in the power of Charles Annesley.

Q. In whose power are the original articles?

In the power of lord Valentia.

Q. Did you ever hear of a woman of the name of Ann Simpson?

I did.

Q. Don't you believe, a marriage ceremony was performed between her and lord Anglesey?

I cannot tell; but have heard, there was. I have no reason to believe it only from hearsay. I have no reason to disbelieve it. I did prove an instrument a while ago, and read it.

Q. Don't you then believe, a marriage ceremony was performed?

I do not know how to frame a belief.

Q. Was not a suit commenced relative to that marriage in the ecclesiastical court?

I believe there was; I heard so.

Q. Did she ever appear in the light of lady Anglesey?

Yes.

Q. Did you ever call her so?

I did very often.

Q. Then cannot you form a belief, whether a marriage ceremony was performed?

I can form a belief only from hearsay, and from what I heard frequently, I do believe there was.

Q. How long did she live with him as his wife?

Till about the latter end of 1740 or beginning of 1741, from 1737, that is to my knowledge.

Q. Whose daughter was she?

I heard, she was daughter of a clothier in Dublin.

Q. Was not he very wealthy?

I have heard, he gave some fortune with his daughter to lord Anglesey; but what I do not know.

Q. Would he have given that, if a marriage ceremony had not been performed?

I believe, he would not.

Q. Would he have given it, if he had known, lord Anglesey was married before to a wife then living?

I believe not.

Q. Don't you believe, that instrument, signed Ann Simpson, was executed after the marriage?

I believe, it was before.

Q. Would she have married lord Anglesey, knowing he was married before to a wife alive?

I doubt much; but, I believe, she would.

Q. What reason for that belief?

Because I thought, she was not so good a woman, as she ought to be.

Q. Was not she of a tolerable good understanding?

Yes.

Q. Of a good understanding?

Of a tolerable good one. I believe, her father did not know any thing of that instrument.

Q. Did you ever hear, this was extorted from her by lord Anglesey?

I never did.

Q. Did you ever hear she signed it, after her marriage?

I never did.

Q. Did you ever hear, that alimony was allowed to her?

I did hear, it was.

Q. Do you believe, miss Donovan ever heard of a ceremony of marriage between lord Anglesey and Ann Simpson before her marriage?

I believe, she might have heard of it, but I do not know.

Q. Do not you believe, Ann Simpson was alive in the beginning of 1742?

I believe, she was.

Cross examined on the part of Richard Annesley.

Q. Don't you believe, lord Anglesey levied fines and suffered recoveries of the Irish estate?

X I believe,

I believe, he did.
 Q. At what time, was it after 1741 or 1742?

I cannot be particular as to the time. I do not know.

Q. When did Charles Anglesey die?

I do not know, but I am informed, he died in 1766 or 1767. I believe, I am wrong; I don't recollect exactly. I believe, it was in 1746 or 1747.

Examined by the Lords.

Q. Do you know of any deed of settlement by lord Anglesey in 1740?

I know there was a deed of settlement.

Q. At what time in 1740 was it made?

I cannot recollect.

Q. Was it about November?

I believe, it might.

Q. Was it on the 14th of November?

I cannot be exact.

Q. Who were the trustees to that deed?

Sir Simon Bradstreet and myself.

Q. What was the substance of that deed?

It was providing for Mrs. Simpson by the name of lady Anglesey, but I cannot say exactly what sum; there was a provision for his daughters Dorothea, Caroline, and Elizabeth, I think.

Q. By what names did he provide for them?

I believe by the name of Lady to each. He made this provision out of his real estate, and charged his real estate with it.

Q. What were the sums, he settled on his several daughters?

I do not quite recollect, or I would tell. They were large sums; I believe, ten thousand, eight thousand, and seven thousand pounds.

Q. Was not Ann Simpson expressly tiled lady Anglesey in that deed?

She was, as well as I remember.

Q. In what light did you at that time consider her?

As his Lady.

Q. And those three as his legitimate daughters?

I understood them so at that time.

Q. How soon after did lord Anglesey part with Ann Simpson?

Very soon after.

Q. Did you hear before the making that settlement, that lord Anglesey was married to a wife in England named Pruff?

I did not hear at that time before 1740. I have heard it since frequently. I do believe, he was married to her, before he married Ann Simpson.

Q. What became of that settlement?

I do not know. I never heard with any certainty. It was charged by a bill by Ann Simpson, that lord Anglesey had destroyed it; but, whether he did or no, I can't tell.

Q. Why did lord Anglesey so soon part with Ann Simpson after the providing for her and her children so very lately?

Because lord Anglesey discovered Ann Simpson in company with a gentleman, who, he suspected, carried on a criminal conversation with her.

Q. With whom was that settlement deposited?

I believe with John Simpson, brother of Ann.

Q. Would John Simpson willingly have given it up to lord Anglesey?

I believe not willingly. I did hear, that Ann Simpson was in possession of it herself. I never heard, nor can I tell, how it came out of her possession. I never heard, that Mr. Ianns had taken it out of her desk. I believe, that settlement was never registered.

Examined for lord Valentia.

Q. Do you know, whether that alimony was by a final decree or pendente lite?

I believe pendente lite.

Q. Are you sure, Devereux was living at the time of the trial in England?

I am; for I got letters from him. There was a son of his, but I got the letters from the father. I do not know, when those letters bore date.

Q. Were the letters, you received from Devereux since the hearing in England, from the same Devereux, whose hand you proved?

It was the same.

Adjourned till Wednesday.

Die Mercurii, 13 May, 1772.

Lord RANELAGH in the chair.

Council called in.

William Goulthurst called again.

Q. HAVE you since your last examination looked into any letters from one Devereux?

I have.

Q. Was it the father or son, whose name was subscribed to the certificate of 1752?

The father. This is a letter from Walter Devereux the father, which I have in my hand.

Q. When did he die?

Before March 1767.

Q. Have you any particular reason for saying that?

I have. There was a suit in chancery, wherein I was concerned; the plaintiff there was sister of this Walter Devereux.

Q. Can you collect, from any thing in that suit, at what time Walter Devereux died?

I have an order in my hands: Walter Devereux, the father, was appointed *prochein amy* in that bill.

Q. Does it appear by any order in that cause, when he died?

I was concerned in the cause; and on his death another *prochein amy* was appointed in 1767.

Q. On what event was it, the second was appointed?

On the death of Walter Devereux the father. Walter Devereux was the name, whose name was signed to that certificate; and it was his hand writing, I believe.

Cross examined for Richard Annesley.

Q. Do you recollect, when the recoveries were suffered, that you mentioned in your last examination?

I do not; I had not time to look.

18th witness, William Smyth.

Q. Was you acquainted with Charles Kavanagh, and with his hand writing?

I was; he is dead. I did see him write several times.

Q. On what occasions?

Some receipts for hay, my father delivered to the late lord Anglesey.

Q. Did you see it?

I have seen it. He delivered that hay for lord Anglesey's use.

Q. Was any thing else delivered by your father, for lord Anglesey's use.

There was oats; sometimes corn.

Q. Did Charles Kavanagh constantly write in the same manner, or ever vary?

He used to vary, in his hand writing: Sometimes he would write better, sometimes worse. I was not examined in England.

The certificate shewn to the witness.

Q. Do you see the name Charles Kavanagh any where in that paper?

I do.

Q. Look at it carefully?

Once is enough for me; I believe it to be the hand writing of Charles Kavanagh, that I have mentioned in my evidence, to the best of my knowledge and belief.

I never saw that paper before.

Cross examination on the part of John Annesley.

Q. Did he not sometimes write better, sometimes worse?

He would.

Q. But did he always write the same sort of hand?

Sometimes he would write smaller, sometimes larger.

Q. But was the shape of the letter the same sort?

The letters were pretty much of the same shape.

An Exhibit, No. 1. shewn to the witness.

Q. Is the name, Charles Kavanagh, written

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ten to that paper? Whose hand writing is it?

I believe, it may be his hand writing. I cannot say. I believe it is, to the best of my knowledge. It is like it.

Q. Are you as sure, that is his hand writing, as you was, that the other was?

Indeed I am positively sure, that the last was.

Q. Are you as certain of the one as the other?

To my belief I believe it may.

Q. Have you as firm a belief of the one as the other?

Indeed, I believe it may.

No. 2. *shewn.*

Q. Do you believe, that is Charles Kavanagh's hand writing?

I believe so.

Q. Have you as firm a belief, that that is his hand writing as the other?

I believe, it may.

No. 3.

The same answer.

No. 4.

Q. Is that Charles Kavanagh's hand?

To my belief it is.

Cross examined for Richard Annesley.

Q. Is not your father alive?

He is.

Q. Where does he live?

In the county of Wexford.

Q. Have not you given it as a reason for being acquainted with Charles Kavanagh's hand, that he passed receipts for hay and corn delivered?

Yes; I received receipts from him, and gave them up to my father, and seen no more of them since. My father is a tenant to lord Valentia.

Q. Are not those receipts in your father's possession now?

They are not to my knowledge. I do not believe, they are; for when my father got an allowance for his rent, he had no farther occasion for them; they were lost or destroyed, or laid aside, we could find none of them. I believe, they are all destroyed.

Q. When did you last see any of those receipts?

In 1745 and 1746, and so on, 'till 1749, and soon after Charles Kavanagh left the Park.

I never saw the certificate, which has been shewn to me, 'till to day.

Q. Did not you hear, you was to be produced as a witness to it?

Now of late I did. I was not examined in England. I did hear, I was to be produced as a witness to that certificate, to prove the hand writing: I never saw it in my life before.

Q. Then is the only reason, you have for swearing to the hand writing to day, the recollection of those receipts, which you have not seen so long?

That was not the only reason, that I had to be acquainted with Charles Kavanagh's hand writing, for I have often seen him write in other affairs, and lived just by within half a mile of him. I have not one of those papers in my possession.

Q. When did you last see those other papers, you speak of, in which his hand writing is?

There is his hand to a bond of Michael Lacy to my father, for 31 l. and I had that lately in the house, but not now. It is above a twelvemonth. Not since last January twelvemonth did I see it.

Q. In whose possession do you believe, that bond is?

I cannot tell.

Q. Who shewed it to you then?

My father had it.

Q. What became of it?

It is sent off to London, and I never saw it since last January twelvemonth.

Q. Did you give notice, at the time that bond was sent to London, that you was able to prove the hand writing of Charles Kavanagh?

No; I did not tell any one at that time; I did not know, there was occasion: If there was, I was not called on; if I was, I would attend in London as well as here. I am tenant to lord Valentia; I live on his lands.

Examined for Lord Valentia.

Q. Was Charles Kavanagh in any and what employment under lord Anglesey?

He was house steward.

Q. Have you a lease from lord Valentia?

My father has.

Q. Have you any from him?

I have

I have a lease under my father; my own lease is not from lord Valentia.

19th Witness, Cornelius Donovan: I

Q. Are you any and what relation to lady Anglesey?

Q. Did you know Charles Kavanagh?

I did; he is dead.
I am acquainted with his hand writing. I often saw him write. He was house steward to lord Anglesey.

The certificate produced to the witness.

Q. Is the name, Charles Kavanagh, in any part of that paper?

I do see it.

Q. Look at that name, and consider it well: Do you believe, that is, the hand writing of the Charles Kavanagh, you have spoke of?

I believe, it is his hand writing.

Q. Have you often seen him write his name?

I have.

Q. Was you acquainted with him for a short time, or for a considerable length?

I was acquainted with him for some years. I was acquainted with Nixon Donovan: He was a brother of mine. I was not acquainted with his hand writing.

Q. How did that happen?

I went into the army in 1733: I left my brother then going to school, to the same master I went to; and I think, about thirteen years of age, to the best of my recollection.

Q. What was the writing master's name?

Thomas Taylor.

Q. How long was it after 1733, before you saw your brother?

I saw him in that same year again.

Q. From that time of seeing him again how long, 'till you saw him next?

I never saw him since.

Q. Did Charles Kavanagh live a short time, or for a considerable length, with lord Anglesey?

I cannot tell the time, he lived with him; but, I believe, he lived five, or six, or seven years in my time. Nixon Donovan, while I was in the army, did not write to me: I did not receive any letter from Nixon Donovan at any time.

Cross-examination for John Anglesey:

Q. How happened it, you do not know the hand writing of your brother?

I never saw it: He was a very young lad; I left him at school with the same master.

Q. Had you learned to write, before you went into the army?

I do not recollect.

Q. How long had you left school yourself, before you went into the army?

I believe, I left school, before I went into the army, three or four years.

Q. Can't you recollect, whether your brother learned to write at all, before you went?

I cannot.

Q. Did you see any copy book of his?

I did not: He was not at school, when I was there, for he was a great deal younger, than I was. I was his second elder brother. I cannot recollect exactly; but there were fourteen sons, and two daughters, and he was the youngest but two or three, I think.

Cross-examined on the part of Richard.

Q. At what time did you become first acquainted with Charles Kavanagh?

In 1747.

Q. Did you ever see him write before 1747?

I did not.

Q. You can read and write, I suppose?

I can.

Q. Do you know the difference between a vowel and a consonant (v)?

I do.

Q. Which of the two u's did he write in the word Kavanagh?

I cannot say; he wrote it variously. I have been well acquainted with his hand writing. I have seen the certificate and his hand writing to it.

Q. Now, which of these two particular letters did he use; an u, or a v; a round u, or sharp v?

A round u, I think.

Q. Is it with the same u, you usually put to your own name?

No, it is not.

Q. Which do you mean by the round u?

The witness looking at them,
I mean, a v. that is the letter, he always used in writing his name, I am certain.

Y *Examined*

Examined for lord Valentia.

Q. At what time did Nixon Donovan die?

He died, as I heard, I think, in November 1741.

Q. What was the reputation of your family as to the time and place of his death?

He died in Dublin here. I cannot mention the place, where he died. I have been a good many years in the army. I was in the horse blues here in Ireland. I was in the battle of Fontenoy, not at Dettingen. I was in Ligonier's. I have been in this country, ever since I left the army from 1747, till the last year that I was called over to England.

Examined by the Lords.

I left the army in 1747: My intimacy with lord Anglesey commenced in that very year. It continued till his death. My sister lived in the family all that time.

Q. Did you ever apprehend, there was a private marriage between your sister and lord Anglesey; and at what time did you begin to apprehend?

I did apprehend, there was; and began to apprehend it, soon after I came there; soon after the year 1747.

Q. Had you any particular reason for that apprehension?

I had in my own mind from the respect paid by his lordship, and the authority she had: I had great reason to think it.

Q. Did you really believe about that time, that your sister was then married to lord Anglesey, or not?

I had these reasons, I assign. I believe, it was so; I had reason to believe, she was married.

Council for lord Valentia.

We will next produce the will of lord Anglesey, and call Mr. Thomas Peree, who will prove the hand writing of lord Anglesey and lord Loftus.

This evidence was objected to, for that two subscribing witnesses to the will are alive; and no account given, why they are not produced.

This matter was deferred, till a witness to the will produced.

20th witness, Thomas Peree.

Look at the title Anglesey there.

I do not know lord Anglesey's hand writing. I know lord Loftus's very well. I have often seen him write: and believe this name Loftus subscribed is the hand writing of that lord Loftus.

Q. Do you know the claimant, Richard Annesley?

I do very well.

Q. When did you first see him?

I believe about the year 1755 or 1756 was the first time, I ever saw him, to the best of my recollection.

Q. What was the occasion of your seeing him at that time?

At that time I had a son, I had put to school at Ross, and it was by that means. I put him to board at one Batts's in Ross. I believe, when my son went there first, Richard Annesley was not at that house, but much about that time I saw him, when he came to board there.

Q. In what light was he considered, as legitimate or illegitimate?

I always understood him to be an illegitimate son; I never knew him in any other light; I have seen him very often.

Q. Did you ever see him in Dublin at any time?

Very often; he has been often at my house as a school fellow of my son's.

Q. Was he in distress at any time in Dublin?

I believe, he was. I remember one particular instance, that he was in distress here. I believe, it was sometime in 1759, he had made an elopement from Ross, where he boarded, and was some months, I believe, missing. I can't say directly the length of time, but it was for some time.

Q. Did he apply to any body, and whom?

I do not know, that he applied to any body; but I accidentally found him out here, and brought him to my house. I think, the circumstance was this: There was a young man, who had been his school fellow, one Eustace, who came to my house, and told me, Dick Annesley had been with him that day, and he seemed to be in great joy at finding him, and said, he had appointed him to come next day, and mentioned the hour, and I begged, he would detain him, when he came, if I was not punctually at the time. The young man was at an academy

demy in William-street, and I went, as near the hour as I could; and he, on seeing me, would have gone off; but I called to him, and he stopped, and I went up to him, and persuaded him to come home to my house.

Q. Did you apply to any body in his favour?

I did; I asked him the cause of his going away, and he told me, that he had taken out a favourite gun, and it had fallen into the river, and he was afraid of lord Anglesey's hasty temper, and therefore he ran away; and it was agreed between him and me, that I should write to lady Anglesey in his behalf, and to have peace made for him. I did accordingly write a letter to lady Anglesey: I think, it was he himself that seemed to think, it was rather better to write to my lady than my lord, as he was of an hasty disposition, and therefore seemed to expect, that if he could have any success, it would be through her influence. I endeavoured to paint the distress of the young gentlemen in the best manner, I could, and endeavoured to persuade lady Anglesey to make some peace for him with lord Anglesey, who was a good deal out of temper with him, for what he had done. I got an answer from lady Anglesey, almost as soon as the post could bring it, in a very short time, which was to this effect; That she thought, I had done a very good act in bringing the lad home to my house, and expressed thanks for it; and that lord Anglesey was very much displeased with him, but that she would use her best endeavours to make peace for him; and desired me to send him to Ross, as soon as conveniently I could: and part of the letter was, I think, that if any necessaries were wanting for him, that I should provide him, and I did so to the amount of seven or eight pounds, or thereabouts, I cannot be positive as to the sum. I did send him to Ross, hired the stage as far as the Royal Oak, and wrote to Mr. Batt to send a horse to meet him. I was repaid for this by Mr. Batt. I cannot say, whether he told me, it was by the order of my lord or lady, but it was by the order of one of them; he told me so, and paid me.

Q. Was that letter wrote by a person well disposed to serve him, or not?

Very much as disposed to serve him: It was a very polite letter, expressing thanks, and concern for what he had gone through; as I had mentioned, that he had suffered a great deal from the length of time.

Q. Did you know lord Loftus, father of the present noble earl?

I did.

Q. Have you any reason to form a belief, whether the present lady Anglesey was married before 1752 or not to lord Anglesey?

An objection to the question was overruled.

Q. Have you any reason to form an opinion?

The only thing, I can bring to my remembrance to form a belief, was some conversation with lord Loftus. It was some time after the general election, and I was mentioning to lord Loftus my having been at Camolin at the time.

This conversation with another was objected to, and the objection overruled.

It is exceedingly difficult for me to form a belief about it one way or other; but the only reason, I have to form a belief, is a conversation with lord Loftus, which was this: I was mentioning to him about the family, and he mentioned this circumstance, that there was no family had treated him worse than they, because they had given their interest in the county against him, or his friend; but that he would not do them any prejudice; but that he would do them justice, as lord Anglesey did tell him before 1752, that he was married to lady Anglesey. This was some time after the death of lord Anglesey, and some time after the general election, for they had given their interest to somebody else in the county.

Q. Was that before or after the registry of lord Anglesey's will?

I cannot say, for I know not any thing of the registry of his will.

Q. How soon had you an acquaintance with Richard Annesley?

I believe about 1755 or 1756; I am sure, it was not until thereabout.

Q. When had you this conversation with lord Loftus?

It was sometime after the death of lord Anglesey, and after the general election which was in 1761; lord Loftus told me, he was coming to Dublin from Loftus-hall, and that he called at Camolin to see lord Anglesey, with whom he was in friendship. Lord Loftus told me, that conversation passed between him and lord Anglesey before the second marriage.

Examined

Examined by the Lords

Q. At the time lord Anglesey had that conversation with lord Loftus, did lord Anglesey say, at what time he was married in 1752?

I do not recollect, that he told me at what period it was, but that lord Anglesey told lord Loftus, there was some family cause, which prevented him from making it known.

Twenty first witness, the rev. James Edkins.

Q. Was you acquainted with Richard late earl of Anglesey?

I was.

Q. Was you ever chaplain to him?

I was appointed his chaplain the 17th of Sep. 1760.

Q. Are you well acquainted with the present lord Valentia?

Very well. I was tutor to him, appointed in Sep. 1760 his tutor by his father; I continued chaplain to lord Anglesey from that time, Sep. 1760, until he died.

Q. Had lord Anglesey divine service often performed in his house?

Every Sunday morning he had full service in his house at the park during his health; and in his sickness often sent for me to pray for him.

Q. Did lord Anglesey assist in those prayers, or not?

He constantly did as clerk, and though I have been forty years in the church, I do not think I had a clerk officiated better.

Q. Did you read prayers for lord Anglesey on the day of his death?

I did twice at least, if not three times; but I remember twice, for I was called the second time by his own desire; I wondered, I should be called so soon to him again, after I read prayers before; which makes me very sure, I read prayers twice for him.

Q. Did lord Anglesey at any time make any declaration to you, whether the present lord was his legitimate son or not?

He did, a few days after the 17th of Sep. 1760, as I was a total stranger to him before; he thought proper, one day when I was alone with him, and lady Anglesey went out, he asked me, whether I had taken notice of that lady, that went out of the room; I said, I did; and he said, that lady is Juliana countess of Anglesey, and is my lawful wife, and no other; and your pupil, my son Arthur lord Annesley, and his sisters,

lady Rickarda, lady Juliana, and lady Catherine, are my true and lawful issue by that my true and lawful wife.

Q. Did lord Anglesey speak of his children and lady in the same manner, or in any different manner during his illness?

Always consistently the same; and never gave me reason to doubt the truth of it to his dying day.

Q. How did he generally behave to his lady and son?

As every husband and father generally does, with all decency and propriety possible.

Cross examined for John Annesley.

Q. Did not you consider lord Anglesey as a very pious and religious man?

I am no judge of the intentions of other people; he appeared to me so by his outward appearance, for he attended the service, and had it very punctual; he behaved, as if he was; I charitably believe, he was pious, for I have the charity to think, that any one, that seems to be in devotion, is really so. I cannot judge, whether people are hypocrites.

Q. Had you any protection from lord Anglesey from debt?

Yes; here is a diploma in my hand appointing me chaplain; I did mean that as a protection from debt. I had the protection to be sure, that a nobleman had both in England and Ireland.

Q. Was any other company at dinner that day, when lady Anglesey went out?

I did not say at dinner; she went out of the room, where she was sitting with us; and as I was a stranger before, lord Anglesey told me, who she was.

Q. Had not you been some days before in the house?

A very few three or four days, or a week. I had been a very few days in the house, when he made that declaration, I was a total stranger in the family before.

Q. Did you ever see her before that day?

I believe, I did two or three days before. I had dined constantly with them before.

Q. Did not the whole company call her lady Anglesey before that?

Yes, they did.

Q. Had you any doubt at all, she was lady Anglesey at that time?

Not at all.

Q. Had

Q. Had lord Anglesey any doubt of it?

I believe not; because he declared to me, she was his lawful wife.

Q. Did you ask him, whether she was his wife?

No.

Q. Did any of the company?

Nobody in company but ourselves, she went out of the room.

Q. Was lord Anglesey drunk or sober?

He was sober.

Q. Did any body ask him, whether his children were legitimate or not?

No. There was nobody to ask him but myself, and I did not ask him any thing about it.

Q. If lord Anglesey knew, that you had dined with her, and that she was called lady Anglesey by all the family, then how can you account for it, that he should go to tell you that in that manner? Was he suspected of having any other wife at that time?

I knew nothing of him 'till that September.

Q. Was there any previous conversation between you, that gave occasion to his making that voluntary declaration?

No.

Q. Did you observe that lady Anglesey going out of the room?

I said, I did, and he never gave me any occasion to doubt the truth of what, he said, from that day to his dying.

Q. Did not he introduce lord Annesley to you before as his son?

Yes; he called him lord Annesley, and bid me to take care of him as his son, and instruct him.

Q. Then what occasion had he to tell you the second time, that he was his lawful son?

I can't tell, what occasion he had.

Q. Was you in any family before, where a man introduced his wife, that sat at the head of his table, as his lawful wife, and no other?

No.

Q. Was not you much surprized at it?

No, not at all surprized that he should tell me so.

Q. Would it not appear a little odd, if any gentleman of your acquaintance, where you dined, should tell you the same?

No, because there are very odd sort of people.

Q. Do you know Davis, an apothecary in this town?

I do.

Q. Did you not tell him, you knew some material to say, that would turn out in favour of the Simpsons?

No, quite the contrary; if I did, I do not know it now, any thing that could be of service to them.

Lord Anglesey desired one Percival, William, I think, in the county of Wexford, who knew me as a tenant to part of my wife's jointure, and liking my character, he sent for me, a total stranger to him, without any application of mine.

Q. Is that he, that was indicted for perjury at Wexford.

The very same. I do not know, whether he recommended me or no. Lord Anglesey got him to write a letter to my law agent in Dublin, to tell me that he would be very glad, that I would become tutor to his son. I did hear, that he was convicted of perjury.

Q. Have you any living in the church?

Yes; I have Drumcondra, parish curate of Drumcondra, and a sine cure in the King's county.

Cross examined for Richard Annesley.

Q. Was you examined before the Lords?

I was.

Q. Did you deliver the same testimony there as at present?

I delivered a great part of it; but a great many things are asked me here, that were not there.

Q. Was not the import of your evidence there, as to the declarations of lord Anglesey, the same?

To the best of my knowledge it was.

Q. Did you receive any protection from lord Valentia on that occasion against your Irish creditors?

I received, being his chaplain, as well as I was chaplain to his father.

Q. Did not you receive a particular written protection from lord Valentia at that time?

I believe, I have the instrument in my pocket.

Q. Look at the date of it?

The ninth of June 1770.

Q. Is that the last protection, you got from lord Valentia?

It is the only one, I ever got.

Q. Is

Q. Is that a protection for your person, or only an appointment as chaplain?

It is no other protection but the appointing me a chaplain. I do not know, but there is another certificate of the appointment; here it is; it is the same date as the other.

Examined by the Lords.

Q. Have you any instrument from lord Valentia, signed only Valentia, for this was signed Anglesey and Valentia?

No; it was in lord Littleton's park, lord Valentia gave me that.

Q. How long did you attend lord Anglesey in his illness?

I came to him September 1760, and attended him, 'till he died in February following. I constantly officiated as clergyman in the house during that time, except a little time I went to Dublin.

Q. Was it the behaviour of a man, that thought, he was in a very declining state?

His behaviour, when sick, was very penitent and with great remorse. I never attended any sick man, that was more penitent. He did apprehend, that he was very near his end; and he told me, a week before he died, that he was very sure, he was dying, and that he felt something within him, and prayed very devoutly.

Q. Was he so in general, for any considerable time before he died? Was it the general turn of his mind?

He had constant service every Sunday, and all his servants called by ringing a bell every Sunday morning. He was well 'till November; fell sick some time in November, and died the February following: he kept his chamber in December; I know, it was in November or December. They attributed his illness to a cold, he got by shaving his head.

Q. Did he ever drop any hint during his being in that declining state, as if what he had said before was not true?

Never; he did to my thinking continue in the same mind constantly to his death.

Q. Did he speak to lady Anglesey and his children after that period, that he thought he was dying?

Yes; they were constantly in his chamber; his lady and daughter Juliana slept constantly in his chamber, as nurse tenders. He spoke to them during his illness, always very kind; he called her lady; he called her the same way in his sickness, as he did in his health. I

never had conversation afterwards relative to that declaration; he never did say any thing relative to that declaration afterwards; I took it for granted.

Q. Did you use your appointment of chaplain as a protection?

Not the late lord's; I had no occasion.

Examined for lord Valentia.

Q. Have you any estate?

I have.

Q. To what yearly amount?

I cannot tell; I set part of it the other day, and it is increased a little; I believe, it is 164l. a year; and I shall be intitled to 100l. a year more, when my father's debts are paid: when the incumbrances are paid, it will be 264l.

This Percival, that was convicted of perjury, is, I believe, a man of a landed estate in the county of Wexford. I believe, he was a sort of agent to lord Anglesey, when he wrote that letter. I believe, he was an agent to Mr. Monck; I have heard so.

Q. When did you hear, that conviction for perjury was?

I cannot tell; it was but the other day; a year or two ago; but my appointment is in September 1760. He was a magistrate of the county of Wexford, at the time he wrote that letter in 1760.

22d Witness. Patrick Kavanagh.

Q. Did you know the late earl of Anglesey?

I did; I knew him a long time before his death; I went with him to England in July 1746 to London, I travelled with him.

Q. Did he and you live in the same house in London?

Yes; while he was there.

Q. Had you one house only, or did you change your lodgings?

I first lodged in St. James's-street for a week, or thereabout; and afterwards in Cork-street, the back of Burlington gardens; we often dined together.

Q. How long did lord Anglesey stay that time in London?

I think, he and I arrived the 20th of July in London, and left it the 19th of August; left it together, and travelled to Ireland together.

Q. When you was in London in 1746, did you hear of Richard Annesley the claimant there?

No;

No; I did not hear of Richard Annesley 'till about 2 or 3 days, or a week, or thereabout, before I left London; and I did not know his name.

Q. Did you hear of any child of lord Anglesey's?

I did.

Q. How came you to hear of him then?

I heard of him from one John Stuart, and one John Williams that kept the white horse in Piccadilly, where I used to be frequently with lord Anglesey; but lord Anglesey was not then there; and they told me, I should have a little matter going back with me, a son of lord Anglesey by a woman in London.

Q. Did they mention the name of that woman?

They did.

Q. What was it?

As one Salkeld, and told something of Millhill, that she lived there; it was a matter, I did not take particular notice of at that time.

Q. Did they call her lady Anglesey, or Mrs. Salkeld?

Oh! Salkeld; I never heard of lady Anglesey there, while I was there.

Q. Did you see this child afterwards?

I did, on the road on my return to Ireland; the child did not set out with my lord Anglesey.

Q. Where was it, you saw the child?

I think, it was somewhere about Newport Pagnel; I did keep a little journal of the stages; and I do not remember to have seen the child 'till about that place; I put it down, where we met him; we travelled in a four wheeled carriage, which lord Anglesey drove, and it broke twice in the road, and it was left to be mended; and each of those times I went in a coach with lord Anglesey good part of the way; and it was then, I went with this child, and a maid that was attending it.

Q. What was this child called?

He was called nothing to me, nor named to me.

Q. Did you ever hear him called lord Altham?

No.

Q. Did lord Anglesey introduce him to you?

He did not; nor mention him to me.

Q. Was this child considered at that time in August 1746 as a legitimate or a natural child?

From the information I got before, I apprehended, he was a natural child, as he must have been if not by lady Anglesey, and I heard no such name while in England.

Q. Did he ever mention, he had a wife in London?

Never.

Q. Did this woman ever go to lord Anglesey's lodging?

Not to my knowledge, nor did I ever hear it. I never heard, that anybody in England claimed a marriage with my lord; never heard a syllable about it.

Q. Did you ever hear of a clergyman called Gold while in England?

I never did.

Q. Did you ever hear of a French officer of the name of Gold?

I have.

Q. Was he a person acquainted with lord Anglesey?

I do not know, I protest. I understood, this child was illegitimate; I had not the least doubt of it.

Cross examination for Richard Annesley.

Q. Did you go with lord Anglesey to England by his invitation?

I did; and as a companion.

Q. What profession was you of then?

The same as I am now.

Q. What is that?

To teach to dance.

Q. You kept pretty much with lord Anglesey in England?

Mostly; dined abroad frequently at taverns, and often at home.

Q. Did you give him instructions in your art at that time?

No; he was a little gouty. It was not to give him instructions in my art, I was to go with him.

Q. Was it merely as a companion?

I cannot say that; I had an intimacy in the family, and he had an affection towards me; and he invited me to accompany him to see London, as I had never seen it before.

Q. Was it to see the rebel lords? Was it with that view, you went?

No; I had not that in view.

Q. Did not lord Anglesey attend the trial of those lords as a peer of Great Britain?

I am sure, he did; for I attended him to that trial, and saw him robed.

Q. Was

Q. Was not the opinion of your's founded upon what those two persons said?

It was.

Q. Meerly?

I cannot say meerly; there was some report in Ireland of his being married privately to another, the present lady Anglesey: others believed that he was not; some did, and some did not.

Q. Don't you believe, that opinion, that he was then married to her, was pretty general?

Not very general; it was kept private. I was frequently in the family. Some people that were connected with the family, and had an intimacy in the family, did believe, they were married; others did not.

Q. Don't you believe, this report was owing to hints dropped from lord Anglesey?

I do not know, what the report took its rise from.

Q. Was it mentioned by several people?

It was mentioned by many; by more than 2 or 3.

Q. Mention some now alive?

I cannot recollect their names so suddenly, that are alive.

Q. Name them, dead or alive?

A man may hear reports from many, and yet in a series of years afterwards cannot recollect it.

Q. Was it so much a secret as not to be talked of by many?

It was talked of by 3, or 4, or 5; I heard it often.

Q. But as to the family, do you consider that as a secret, that is talked of by many in the family?

It might be kept a secret on account of its not being fit to be told perhaps; there may be a reason, which I do not know, why it should be kept a secret in that manner; it might be kept a secret, though it was known and mentioned.

Q. Might there not be several of the name of Gold in England, that you did not know?

There might; I am a Roman catholic; there might be twenty clergymen of that name, for ought I know, and might be acquaintances of lord Anglesey's without my knowledge.

Q. Have you heard of the claim of James Annesley?

I have.

Q. Do not you believe, that this claim subsisted at the time of this secret marriage be-

ing talked of by several people, do you believe, that claim was not subsided?

No; it was not subsided; after the trial at Wexford they gave it over. That claim might have subsisted in law without my knowledge. I understood, all thoughts of that claim were over; before I went to London with my lord, in the year 1746, I apprehended it over.

Q. Did you visit lord Anglesey's relations in London?

No; I never saw any relations there of his; except a nephew of his who came over with lord Anglesey to Ireland; but he was not so much on the road in my company, because I was with lord Anglesey; his name was Green.

Cross examined on the part of John Annesley.

I was well acquainted with this family. I did hear of Francis Annesley of Ballyfax.

Q. Was not he considered in the family as intitled to the Irish honours, if lord Anglesey died without issue male?

Indeed, I believe, he was always considered so in the family, as being the next in blood. Lord Anglesey did consider him so; he was constantly with him, and he had a particular regard for him.

Q. Did Francis Annesley die without issue male?

He did.

Q. Was not the father of John, the present petitioner, considered as his next heir?

He was; I did not know the name of the petitioner's father.

Q. Did not lord Anglesey himself and the whole family consider, that after Francis's death the clergyman Richard, father of the petitioner, was considered as intitled to his honours, if lord Anglesey had no lawful issue?

It was generally considered so.

Examined for lord Valentia.

Q. Did you ever hear Green say any thing about this child by Ann Salkeld?

He never mentioned the name of Ann Salkeld, but called him a son of lord Anglesey's, by a woman that he had there. Lord Anglesey brought Green with him from London, and he lived with him, till he died. I think, it was he, that mentioned particularly Mill-hill; but I do not know, whether it was Stuart and Williams, or no. Green died at Camolin.

Q. Had

Q. Had your father any connection with this family?

My father was a very great friend to Arthur, lord Altham, elder brother of lord Anglesey; and it's very well known, that he suffered thousands by him, and never got any gratuity for it.

Q. Did lord Anglesey promise to make you any compensation?

He never did promise, and never did make any.

Cross examined for Richard Annesley.

Q. Was not Green at the time of his making this declaration about that boy next heir to lord Anglesey's estate?

He was his nephew; but I do not know, whether he was heir to him, or to any thing.

Q. Was not he the only nephew, he had by any sister?

I cannot tell.

Die Jovis, 14 May, 1772.

LORD RANELAGH in the chair.

Council called in.

The certificate of the 15th of September 1741 was offered to be read, which by reason of the special circumstances of this case was admitted and read, as material in the consideration of the testimony given by several of the witnesses.

"This is to certify, that I joined in the holy estate of matrimony, the right honourable Richard earl of Anglesey to Juliana Donovan spinster, according to the rubrick of the church of England, and the form of common prayer set forth for that purpose. Witness my hand and seal this 15th day of September 1741."

Lau. Neil, ○

Witness

Chas. Kavanagh.

Nixon Donovan.

The certificate of the marriage of 1752 read.

"We the undernamed persons were present this eighth day of October one thou-

Q. What do you believe?

I cannot form a belief; I am sure, he was a nephew.

Q. If lord Anglesey had died without lawful issue, would not Green come in to a proportion?

I protest, I do not know.

Examined by the Lords.

I recollect, lord Anglesey had another of the name of Green, but he died long before that.

Q. Was not Charles Annesley considered as next in remainder to lord Anglesey?

Yes, he was; but he was dead at the time, they are speaking of. I never heard, that this Green was sponsor to Richard Annesley. I do not know, whether lord Anglesey was acquainted with any other of that name.

Adjourned till to-morrow.

"said seven hundred and fifty two, when the right honourable Richard earl of Anglesey acknowledged, he had intermarried with Juliana Donovan, countess of Anglesey, on the fifteenth day of September one thousand seven hundred and forty one; and at the same time the said countess of Anglesey produced the certificate of said marriage in our presence. And he the said Richard earl of Anglesey declared, he was determined to have the said marriage ceremony performed over again to prevent any future disputes in his lordship's family. As most of the witnesses, that were present at the marriage, are since dead, and we accordingly saw his lordship married over again this present day above mentioned. Witness our hands."

Luke Masterfon.

Howard Kyane.

Thos. Troy.

J. Stringer.

James Whyte.

Walter Devereux.

John Ianns.

A a

Council

Council for lord Valentia.

We rest lord Valentia's case here for the present, having the indulgence of the committee to produce the evidence which has been postponed, and other evidence in way of reply; and also to establish the character of Mr. Neil or any of our witnesses, if they are impeached.

Allowed.

A letter from lord Glerawly, dated Dublin, 22 September 1741, signed William Annesley, directed to lord Anglesey at Camolin Park near Gorey.

*Read.**Council for Richard Annesley.*

We do not put them to the proof of lord Glerawly's hand.

Council for lord Valentia.

Desired an affidavit made by the late lord Loftus, and referred to the attorney and solicitor general here, should be read as against John Annesley the petitioner only, he being a party to that reference.

Objected to; the objection allowed.

Council for the petitioners were desired to proceed.

Council for John Annesley.

If we do examine witnesses to the pedigree, it will be only one. Our title is as heir male to the first ancestor. We will shew, that neither of the marriages are well founded.

Council for Richard Annesley.

To the fact of the marriage we shall not produce any more witnesses. Our witnesses are not yet sworn.

They were called upon now to open the case, and what evidence they intend to give in answer to the case stated and made for lord Valentia.

Council for Richard Annesley.

We did not expect to be called on to make observations on the evidence to day; as we had no reason to think, the evidence on the part of the present lord Valentia would be closed.

It has been attempted to establish a marriage in 1741, under which only lord Valentia can be legitimate. We will shew, that so far from lord Anglesey's considering him legitimate he directed a gentleman of known character and probity to apply to lord Courtown to be guardian to his natural son; and we will shew, that his affections were endeavoured to be alienated from his son; yet at particular moments he did him justice, and declared, he would be earl of Anglesey in spite of them all. The attempt to discredit Mrs. Knight has failed; and Mr. Sibthorp will support her character as to veracity; and we will give some evidence as to the character of Neil, the supposed clergyman. We have our witnesses ready to be sworn, if it can be done now, after the house is adjourned. And we will produce exhibits, to shew how lady Anglesey considered herself long after the supposed marriage.

Council for John Annesley.

It will be necessary to produce an affidavit to a warrant of attorney to acknowledge satisfaction on the record of a judgment obtained by her in a suit against Francis Annesley, and executed in 1751, witnessed by Mr. Ianns. It remains in the exchequer office, and the officer cannot be prevailed on to attend.

Adjourned until Saturday at ten o'clock.

Dis

Die Sabbati, 16 May, 1772.

Lord RANELAGH in the chair.

Council called in.

23d Witness. Frederick Flood.

Q. LOOK at that paper, what is it?
This is a lease from Arthur, lord viscount Valentia, to Mr. Richard Annesley, signed Valentia and Richard Annesley. I am acquainted with the hand writing of lord Valentia; saw it executed by both parties. I am a subscribing witness to this lease.

Q. Was it executed the day, it bears date?

I believe not; it was executed a few days after; for Mr. Richard Annesley brought it in his pocket ready filled in order to be executed by lord Valentia; it is dated the 24th of January 1772. I am sure, the date was filled up some days before, because the person, who, I believe, filled up the blanks, was not present, when this was executed; and therefore, I believe, it was dated, before it was executed.

Cross examined for Richard Annesley.

Q. Had not lord Valentia heard of Richard Annesley's claim before the execution of that lease?

I believe, he had not heard seriously of it; he might have heard, Mr. Richard Annesley very often has spoke pretty oddly, but never mentioned this particular claim. I do verily believe, lord Valentia did not imagine, that he would have preferred a petition to this house, claiming the honours now in question. I believe, Mr. Richard Annesley did threaten to file a bill, and told me, he would, to put a stop to the cutting woods, which I told Mr. Richard Annesley frequently, I apprehended, he had no right to do, as lord Valentia was tenant for life without impeachment of waste by his father's will.

Q. Don't you believe, Mr. Richard Annesley informed lord Valentia and your self of his claim?

I believe, the honourable Mr. Richard Annesley, the present lord Glerawly's brother, did tell me, that Richard Annesley had been

with some of his family about the honours in question in order to be taken up, or words to that effect.

Q. Don't you believe, that lord Glerawly's brother informed you, that Richard the claimant had retained council?

I do not recollect, that he mentioned council at all.

Q. Was this antecedent to the execution of this lease?

I believe, it was; I paid no attention to what was said, for I thought it a meer chimerical affair on the part of the petitioner.

Q. What is the rent reserved on that lease.

Fourteen pounds a year.

Q. Don't you believe, that was a reasonable rent by a solvent tenant?

I don't know, what the value is; I believe, it was valued by the under agent?

Q. Did the under agent value it to that rent?

I believe, he did; for it was agreed on between the parties, that lord Valentia meant to pay Richard Annesley a compliment, and would leave the value to his agent.

Cross examined on the part of John Annesley.

Q. Did you think, Richard Annesley had no right to file that bill?

I did.

Q. Did it relate to the Irish estate?

I believe, it did; the houses demised by this lease are part of the Anglesey estate in the possession of Richard, late earl of Anglesey, in the town of Newrofs; the present lord Valentia received the rents of it.

Q. Are you agent to lord Valentia?

I am to part of his estates.

The lease not read.

Examined for lord Valentia.

Q. What paper is that in your hand?

The

The question objected to on the part of Richard Annesley, as there was a subscribing witness to that paper. to the sum, by the addition of interest the balance was 584l. 19s. 2d.

Cross examined for Richard Annesley.

This paper is an account stated and settled between Arthur lord Valentia, and Richard Annesley.

Q Was not you married to the sister of lord Valentia ?

Q Did you at any time pay any legacy to Richard Annesley ?

I was ; my first wife was.

Examined by the Lords.

I did ; the balance of a legacy, that was owing to him.

Richard Annesley did throw out some loose hints, but I did not know what to make of those hints.

Q What was the sum, you paid ?

Q Did you hear any thing of it after the execution of that lease ?

The balance was 883l. 6s. 6d.

Yes, Richard Annesley brought another lease, and a counter part, ready, as I believe, to have it filled up for a renewal.

Q Was that the sum, you paid ?

Q Did he get that lease ?

No ; 530l. 12s. 11d. I am not a subscribing witness ; but I was present. Lord Valentia in my presence assigned a wood bond to him for 530l. 12s. 11s.

He did not. Lord Valentia, totally unacquainted with the value of that part of his estate, consisting of small houses, said, he could not suddenly without advising. And Mr. Richard Annesley expressed resentment thereat, and said, lord Valentia should be sorry for it. And I told Richard Annesley, that he had no sooner got one favour, than he wanted another.

Q Was that wood bond accepted ?

Q How long after he had obtained the first lease, did he apply for a second ?

It was ; the bond was not then due ; but Richard Annesley was allowed discount out of the principal sum of 700l. and there was a redundancy of 115l. 00s. 10d. for which Richard Annesley passed his promissory note ; I mean by a redundancy a sum owing over and above the balance.

In a very few days.

Q On what day was that bond given in full discharge of that legacy ?

Q How soon after the refusal of this second lease was there any rumour, that he would prefer a petition ?

I believe, it was on the day, it bears date, the 23d of November 1771 ; it was done in my presence ; it was not before that day, I believe. That was a legacy by the will of lord Anglesey to Richard Annesley by the description of his natural son.

I did hear it ; Mr. Rogers came to me with a proposal as from himself, and to inform me, that I should advise lord Valentia to agree to this renewal, making the second lease, otherwise he knew lord Valentia would be sorry for it, and said he was to leave town next morning, and, as he wished peace, would be glad, it was done before.

This evidence of the description was objected to, as the witness was giving his opinion.

Q Were the contents of that bond paid or not ?

I did not mention it as my opinion ; but only mentioned it under the draft of the will, which I have read.

It was payable by instalments. Richard Annesley himself told me, that he went to the obligors, and offered to discount with them, and that at first they refused it, but on his promising a premium over and above the common interest they agreed to it. I asked Benjamin James, who is one of the company with the other obligors, and he told me it was discharged.

Q By whom is that paper signed ?

Richard Annesley.

Q Is there any witness to it ?

There is Joseph Rogers ; I was present, and saw Richard Annesley sign it, and Rogers put his name as witness ; the reason, I did not, was, that I was in a hurry, and therefore I did not put my name to it. I heard, that Rogers and Richard are married to two sisters ; that is the reputation of the country. I believe, Rogers is in town, he was two or three days ago. This paper is not my hand writing. I desire to correct myself as

Council for Richard Anglesey, proceed.

Fourth witness called.

Stopford Fielding.

Q. Are you in any and what station in the revenue?

I am a surveyor of the coast.

Q. Are you related to any noble person in the county of Wexford?

To lord Courtown. The late lord was my coufingerman. I knew lord Anglesey.

Q. At what time did your acquaintance commence?

I believe about 1743 or 1744; I cannot say exactly, it might be more or less.

Q. Did you at that time know the present lady Anglesey?

I did not at that time.

Q. How soon after?

I believe about 1756, I cannot say exactly.

Q. Was she reputed to live in any and what manner with lord Anglesey?

I cannot tell; I did not trouble my mind; I was not in the way to know any thing about them; I did not mind their affairs in any shape, nor any thing that was told about them; I always absconded and went away, when I heard their names mentioned.

Q. in what shape did she live with lord Anglesey in 1743 or 1744?

I heard, that lord Anglesey had sent away Mrs. Simpson, and had taken Mrs. Donovan into keeping; but I do not know in what year; he kept Mrs. Donovan in the house with him, when he turned off Ann Simpson, who was called lady Anglesey, but I do not know in what shape; I do not know, what the reputation of the country was; I cannot say; I heard so much of it, that I was sick of it, and did not mind.

Q. What do you mean by that?

I went away always, when I heard it repeated, and would go out of the room, till I thought it was over, and they had got some other subject.

Q. Was it good or bad, that you heard of her?

I heard, she was in the way of housekeeper to lord Anglesey, but I do not know whether he kept her: But I believe, he did, because it was frequently said so.

Q. Do you remember any passage betwixt you and lord Anglesey, relative to some plate?

I do. I dined with him one day, I believe, it was in 1755 or 1756, but I cannot

say within 7 years of the time; I do not know, whether it was 1745 or 1746, it was between those 10 years, but cannot say exactly.

Q. What happened that day?

He asked me, if I had ever seen his new service of plate: I told him; I had not. He then rung a bell, and called for Juli, meaning Mrs. Donovan, I believe; and desired her to have the plate brought into the hall for me to look at; and desired me to go out to look at it, and said, you see, I have not put my crest on it, for I intend it for Juli. He said nothing else at that time: I have heard of a marriage between lord and lady Anglesey, in 1752. It was before that time, I believe.

Q. Was it a year or two, or half a year, before that marriage?

It might be four, five, or six, but I can't tell; it did not in the least affect me, when it was. I only heard, the marriage was in 1752; it might be in 1756, for ought I knew.

Q. Was you desired by lord Anglesey at any time to go on any message to the late lord Courtown?

Yes, I was; he sent for me to his house several times, before I went about 1757. I know it was after 1756, for I had a particular reason to know it: He was then Mr. Stopford; and lord Anglesey desired me to ask him, if he would be guardian to his son Arthur, for he said, he was loath to ask him himself, as he was a bastard, and that Mr. Stopford was a hot man, and he was afraid, he might offend him; but he would be obliged to me to find out, whether he would be guardian or not. I did ask Mr. Stopford the question, and he said, he would; and I soon after told lord Anglesey so, and he was very much pleased at it, that Mr. Stopford would take the guardianship upon him.

Q. Did any thing happen in consequence of that?

Lord Anglesey sent his son Arthur to my house soon after, in order, as he told me, to see if Mr. Stopford would take any notice of him.

Q. Did Mr. Stopford afterwards see his son at your house?

No, he did not.

Q. Did you ever hear of one Laurence Neil; did you every see him?

I did; I saw him at lord Anglesey's at Bray. I believe, it was in 1748, but I cannot tell, it did not affect me; I did not wish to know any thing about them. I do not know, whether his name was Laurence or no.

B b

Q. What did you see pass on that day?
 I saw lord Anglesey bid him go out of the house, for that he was a notorious rascal, or villain, some very bad name. I pitied him, for he was very gouty, and I begged lord Anglesey to suffer him to stay, 'till a chaise came for him from Dublin, but he would not.

Q. Did you know miss Jane Batt?
 I believe, I might have seen her. I have no acquaintance with that family; they live in Ross, I know.

Q. Did you ever make any inquiry of the family of the Batt's, relative to what time lord Anglesey came in the yacht from Wales?

I did not; I never had any such intention. I never went to Ross with any such intention. I never saw miss Batt but once in Ross in my way to Kilkenny. I never did make any inquiry from the family of Batt.

Council for John Annesley.

We have no intention to ask the witness any question now, unless made necessary by lord Valentia's cross examination.

Cross examined for Lord Valentia.

Q. Was you examined before the Lords in England?

I was.

Q. Did you give the same testimony there, that you have given this day?

I believe to the particular facts, that I was sure of, I did.

Q. How long before your examination there did you give an account to any body, that you could give such testimony?

I cannot say.

Q. Did you a year before mention it?

I believe, I did to many people; I cannot say particularly to whom, but believe, I did mention it. The present lord Courtown said, I did; I cannot recollect what time, but, I believe, I did mention it to him, because he told me since, that I did.

Q. What part of the testimony did you mention to him? Did you mention the whole?

I did not mention the whole to him, but I mentioned the message to him, for he told me so, that I did. I cannot recollect, how much of it I mentioned to him.

Did you mention it to any agent for Mr. or Mrs. Dubois?

Not that I know of, or can recollect. I cannot remember, that I did: I do not know, but I might.

Q. If you was well acquainted with Mrs. Dubois, would you have mentioned it to her?

I cannot say, whether I would or no.

Q. Was it not on her petition to the crown, that inquiry was before the Lords in England; what do you believe?

I cannot tell, whether it was or no. I cannot believe any thing about it.

Q. Is there any alliance between Mrs. Dubois and you?

Yes, her sister is married to a brother-in-law of mine, and I am very sorry, he is; That brother's name is William Whyte.

Q. What is your salary in the revenue?

A hundred a year.

Q. What was it, when you was examined before the Lords?

I believe, it was a hundred a year. It was a hundred a year then.

Q. Was you at lord Anglesey's between 1752 and 1756?

I believe, I might be there; I cannot recollect.

Q. Was you between 1752 and 1757?

I believe, I might; I was very often there.

Q. Did you ever see lord Valentia at that time between 1752 and 1757 at lord Anglesey's, his father's.

I cannot say whether in those years, but I believe, I might.

Q. How was he called there in the family?

Sometimes Arthur, sometimes lord Annesley; the servants called him lord Annesley, I heard nobody else. Lord Anglesey called him Arthur.

Q. Did lord Valentia ever go with his father to your house?

Not that I can recollect; I believe, he did not.

Q. Had you any discourse with lord Valentia in those years? Did you ever address him by his name in those years?

I did call him lord Annesley, at my own house in 1757, when he was there with Mr. Lewis Miller, who came with him to take care of him. I believe, he was his tutor at that time, but I do not know. I might have drank his health, but I do not know, what I might have called him; I do not know by what Appellation. Lord Anglesey was not with him at my house at the time, I mention, that I can recollect. That Mr. Miller is dead.

Q. When did Mr. Stopford die?

He died two years last January, I think.

Q. Did he die, since lord Valentia took his seat in this house?

I cannot

I cannot say; I have a very high reason to know his death; I could not mistake his death. I cannot form a belief, whether it was since lord Valentia's taking his seat; I heard, he did take his seat, but know not when. I had accounts to settle, and that makes me remember particularly his death.

Q. Did you hear of the inquiry before the attorney and solicitor general in this kingdom?

I believe, I might, but do not recollect.

Q. Are not you a Wexford man?

I am; I do not doubt, but I might have heard of it. Nothing relating to the Anglesey family affected me.

Q. Then have you no connection with this family?

I have a lease from the late lord Anglesey, if that be a connection.

Q. Have you more leases than one?

I had one from lord Anglesey and Charles Annesley, when he and Charles Annesley agreed to make a division of the estate: They signed the lease separately, one part signed by Charles, the other two parts from lord Anglesey; when a third part was given to Charles, and two thirds given to lord Anglesey.

Q. Did lord Anglesey never execute any lease to you but the one?

Of the two thirds he did, but never executed a fee-farm lease; but the lease, I have from him, since Charles died, is for forty one years or three lives, which ever lasts longest. I might have heard of this contest before the attorney and solicitor general, but not to affect me. I might have heard it as other people.

Q. Did you ever see lord Courtown pending that inquiry before the attorney and solicitor general?

I believe, I saw him every day. I never was two months from him together these forty years.

Q. Did you ever talk to him about this matter?

Not that I can recollect. I never did.

Q. Or did he to you?

He never did, that I can recollect.

Q. Did it surprize you, or not, when lord Anglesey in 1757 told you, his son was a bastard?

I was surprized, that he would send to Mr. Stopford a message to have him guardian to his bastard; I was surprized at that.

Q. Was you surprized, at his telling you his son was a bastard?

I was not a bit.

Q. Was you asked that question before the Lords.

I protest, I do not know whether or no, for I did not read the minutes.

Q. Did you answer before the Lords, that you was surprized at that?

I cannot tell, whether I did or no. I do not know, but I might. I believe, that question was put to me before the Lords. I cannot tell, what answer I gave; I cannot recollect.

Q. Was not you sworn to tell the whole truth?

I was.

Q. Did you answer that question in the affirmative or negative?

I protest, I cannot say; my memory is a little impaired, since I got a fall on my head from my horse.

Q. Did Mr. Stopford consent to be guardian?

He did.

Q. Was Mr. Stopford surprized or not?

I cannot say now, whether he was or no.

Q. Did you mention before the lords, that Mr. Stopford was surprized, or not?

I cannot say.

Q. Was you asked the question?

I protest, I cannot say, whether I was or no.

Q. Was he appointed guardian, or not?

I believe, he was not.

Q. Did you before 1757 hear, that lord Anglesey had said, he was married in 1741?

I believe, I might. I did. Mr. James Whyte told me, lord Anglesey was married in 1752, and that a certificate was produced, that he was married in 1741 by Mr. Neil; that Mr. Neil said, he had married them in 1741.

Q. When did Mr. Miller and lord Valentia go to your house?

It was about 1757. It was after 1756. I am sure, it was after the message, I was sent with to lord Courtown.

Q. Was Neil chaplain to lord Anglesey?

I dont know, what he was to him; I believe, he was a clergyman. I believe, Mr. Miller was a clergyman.

Q. What did he call lord Valentia?

I asked him, if he had any orders from lord Anglesey, what we should call him, and he said not.

Q. What did Miller call him?

I cannot say.

Q. Was

Q. Was that question asked you before the Lords ?

I cannot say, whether it was or no.

Q. As to those leases, was there any lease made to you by lord Anglesey, save only the one you mention ?

Never but of the one lands. Upon recollection, I believe, there was a lease made to me in trust for James Whyte his agent, which trust I declared.

Q. Did you ever set up to be a burgess of Wexford ?

Yes.

Q. Did you apply to lord Valentia for his interest ?

Yes.

Q. Did you get his interest ?

No, he denied it me ; he wrote me a letter, that he had given it before I asked him.

Q. Was that, before you was examined in England ?

Yes, it was.

Cross examined for John Annesley by Mr. Kelly.

Q. Did you consider lord Valentia as lord Annesley, at the time you called him so ?

I called him out of civility : I did not think, he had the least title to it.

Q. Did you ever hear, before Whyte told you, of any marriage between lord Anglesey and Juliana Donovan ?

I never did.

Q. Was you all that time tenant to the Anglesey estate ? How many years before that ?

I believe, the first lease, I got from lord Anglesey and Charles Annesley, was in 1744. I read the lease, before I came to town, that I might answer that question, because it was asked me in England.

Q. Did lord Valentia's interest go against you ?

Most of it.

Q. Did you carry your election in Wexford ?

I did.

Q. Was you supported by low freemen, or the principal gentlemen, on that election ?

By the principal gentlemen I surely was.

Q. Have you any commission in the country except your revenue employment ?

I am a justice of peace of the county of Wexford.

Q. Have you any fortune besides your employment ?

Yes, I certainly have an independant fortune. Whyte said to me, Neil declared on the marriage in 1752, that he had married them in 1741. I believe, it was immediately after the marriage, that Whyte told me that, it was very soon after.

Examined by the Committee.

Q. Upon your application to Mr. Stopford did he make any objections to be guardian ?

I cannot recollect.

Q. Had you any argument to persuade him ?

None at all. I cannot say, whether he willingly or readily accepted it.

Q. At the time of his acceptance of it was there any common report of lord Valentia's being an illegitimate son ?

Every body, I knew, imagined, he was an illegitimate son. Lord Courtown did not mention any opinion at that time on that subject.

Q. What do you understand, by a service of plate ?

I believe, there was two or three dozen of plates and dishes.

Q. Did lord Anglesey say, his crest, or arms ?

He said his crest ; there were no arms on that plate, that I can recollect.

Q. Can you be particular as to the year, when lord Anglesey shewed you this service of plate ?

I protest, I cannot.

Q. Was it before or after 1752 ?

Oh ! it was before, I believe.

5th Witness, John Lloyd.

I know the claimant Richard Annesley and the present viscount Valentia. I believe, my acquaintance with them first commenced about 1750 or 1751 ; I am not certain, for I was very young at that time.

Q. How did you become acquainted ?

They were both sent to the school of Ross. There was a familiarity and acquaintance of long standing between my father's family and lord Anglesey's, and lord Altham before him ; and when he thought proper to send them to school at Ross, he put them to lodge in my father's house.

Q. In what manner were they brought to your father's ?

They

They came in lord Anglesey's coach and set. The reason, I cannot be certain, is, that the coach did not drive up to my father's door, because it was not easy for a coach and set to turn there; they both alighted out of the carriage, and walked to my father's.

Q. In what manner were they treated at your father's?

They were both treated on terms of equality in every one particular, I can recollect. I recollect exceedingly well, because when they came to my father's house, the matter was new, and therefore their appearance made an impression on me; even their cloaths; that I therefore recollect almost, what their cloaths were.

Q. Was there any difference in their manner of cloathing?

There was not; they were dressed exactly alike in every particular; they had brown waistcoats laced with gold.

Q. How were they called there?

Master Dick and master Arthur, 'till we became a little familiar; Dick and Arthur afterwards.

Q. How long did they continue at your father's house?

I cannot recollect; but Richard continued longer than lord Valentia.

Q. Was there any particular degree of deference given to master Arthur?

There was not, in no one particular; their treatment also was exactly alike in every possible particular, except on account of seniority. I cannot say positively, which was the elder, but Richard was considered at my father's house and treated as the elder brother; and I never heard it controverted, from the first day I knew them, 'till the present moment, that Richard was not the elder of the two.

Q. Why did Richard continue longer at that school?

I cannot be positive as to the reason, but think, I heard a reason assigned for it: Lord Valentia was called lord Annesley, before he left my father's house. The two gentlemen did not agree well after, indeed not before; but, after he was called lord Annesley, they agreed worse than before: And I heard, that at lord Loftus's they quarrelled, and that lord Valentia drew a knife on Richard, and that a scuffle ensued; and indeed they agreed so very badly, that it was almost necessary to part them. I should suppose, that after lord Anglesey had ordered him to be called lord

Annesley, perhaps he might take him into his house.

Q. At what time was lord Valentia first honoured with the title of lord Annesley?

I cannot say; but I recollect, it was at my father's house, when he was first called so.

Q. Was it before or after 1752, he was called so?

I cannot say, whether it was before or after, I was so very young at that time, and had very little intercourse with either of the gentlemen since.

Q. Did you ever hear of a marriage between lord Anglesey and the mother of the present lord Valentia in 1752?

I did hear of such a marriage, but cannot say, whether it was in 1752 or not.

Q. Was it before or after the time of that marriage, lord Valentia was called lord Annesley?

I believe, it was after; I am not positive: I heard my father and mother and people of the town talk of a marriage.

Q. Was the marriage, you mention, a publick or private marriage?

I believe, I heard, it was a publick marriage: I do not recollect to have heard, it was a private one, and therefore suppose, it was like any other marriage.

Cross examination for John Annesley.

Q. Were those young gentlemen considered as legitimate children at your father's?

Since neither of them were acknowledged by their own father to be his lawful son and heir, the presumption was, that neither one or the other of them was legitimate. I do not think the presumption equal, but still the presumption was, that neither was legitimate.

Q. What was the general reputation of the town as to that?

It is very hard for me to say, what the general reputation is: I was very young at that time, but I believe, the general reputation was, that neither one or the other was legitimate.

Q. How were they considered in your father's house?

As illegitimate for the same reason.

Cross examined for lord Valentia.

Q. Can you be sure, whether it was in 1750 or 1751, they were brought to Ross?

C c I cannot.

I cannot.

Q. Who came with them to Ross?
I heard, that there came an old woman, who was servant in lord Anglesey's family: I do not recollect any body else.

Q. Don't you believe, the present lady Anglesey came with them?

I do not; because I do not recollect any circumstance, that should induce me to it. I believe, I did see this old woman, and believe, she came with them to my father's.

Q. What was her name?

I believe, her name was Muckmullen, or some such strange name. I recollect the figure of the woman.

Q. Did any servant man come with the carriage to Ross?

I do not recollect. I suppose, a servant attended the coach.

Q. Did any servant man come to your father's?

I do not recollect, that there did; but am not certain of that.

Q. Did they lie in the same bed together?
They did; I am positive of that.

Q. During the whole time?

They did to the best of my recollection during the whole time, they continued at my father's; and after lord Valentia was called lord Annesley to the best of my recollection.

Q. How long, before lord Valentia left school, was he called lord Annesley?

I cannot form a judgment of that: I do not recollect the date of those transactions; I suppose, it might be about half a year, but that is only conjecture.

Q. From the time lord Valentia was so called to the time of his leaving Ross, was there any distinction between him and Richard?

To the best of my recollection, no distinction was even after that, except the distinction of calling him lord Annesley.

Q. Was there any difference in the dress?

That is the only matter, that I cannot be positive in; for it did not make such an impression on me as to their dress, as when they first came to my father's: But as to every other matter they slept together, and were treated in every other respect as before.

Q. But you are very positive, each of them had a brown waistcoat laced with gold?

I am.

Q. Then how is it, that you can form no belief as to their apparel at a later period?

Their appearance as to cloaths, after lord

Valentia was called lord Annesley, happened after a course of familiarity between us; and therefore it did not strike me so as their appearance, when first they came to my father's house, because the matter was then quite new.

Q. Am I then to understand you, that the longer and better you was acquainted with them, the less you can say as to their cloaths?

It is so.

Q. How long did they remain at school in Ross?

I can't say.

Q. Did they a year?

I believe, they did more than a year.

Q. Did they two years?

I cannot be positive; I was very young at that time: I believe, they were there more than a year. I cannot form a belief, whether they were two years; but I know, Richard continued longer than lord Valentia.

Q. How old are you?

I shall be twenty nine this summer.

Q. How old was you, at the time they came to school?

About eight or nine: I was born in 1743, and they came in 1750 or 1751.

Q. What kind of waistcoat had you yourself, at the time they came?

I do not recollect. After lord Valentia was called lord Annesley, I saw no other difference in any respect.

Q. Were those gentlemen sent for to Camolin-park from Ross?

To the best of my recollection they were in the vacation time. I am pretty sure, they were.

Q. What was the reason, as you believe, for lord Annesley's being removed from school?

I knew, they did not agree well; and I heard, that particular quarrel at lord Loftus's, which, I believe, he told lord Anglesey of, was the cause. I have heard that assigned as the reason for their parting, and the general disagreement between them.

Q. Had your father heard this story about the knife?

I cannot tell.

Q. What do you believe?

I cannot form a belief.

Q. Did your father ever hear, they disagreed?

He not only heard it, but knew it; for they were quarrelling perpetually.

Q. Did he afterwards put them into different beds?

He

He did not; for I recollect their fighting, after they went to bed.

Q. Are you in any office?

I am not.

Q. Have you been in any office?

Never; I came to college in 1760, and I read the course with a son of commissioner Bourke, who conceived an affection for me, and I have lived in his family ever since, almost 7 years.

Examined for Richard Annesley.

Q. Were or were not those two gentlemen the first boys, that ever came to your father's house in such a dress?

That is a vague sort of a question; but those two gentlemen were the sons of the earl of Anglesey. That was a striking circumstance; they were two brothers, and came to live at my father's house. All those were striking circumstances.

Q. But did any boys come to lodge at your father's in such a dress?

Never; my father's was not a house of lodgers.

Q. Was you at school with them?

I was.

Q. Were there any other boys at school, that wore laced waistcoats?

I cannot say.

6th Witness, the honourable Richard Annesley.

I know the claimant Richard. I know Frederick Flood, esq;

Q. Had you any conversation with him, relative to any claim to be set up by Richard?

I never in my life had any conversation with him concerning the claimant. I did speak to the present lord Valentia about it. I am not very certain as to the time, but I believe, it was in Michaelmas term, or during the seal, that I met lord Valentia at the four courts, I called him into the room, where the chancery formerly sat, it was not then sitting; I told lord Valentia, that my uncle Annesley, who had just come from England, had acquainted me, that lord Valentia had waited on him immediately after the decision of the lords in England, and told him, that he understood, lord Glerawley intended to support John Annesley against him here in Ireland. I told him, it gave me concern, his lordship should say so, as he and I were intimate in England; I told him, my bro-

ther would not take the part of any man; and I then told him, there was another claimant; he said, it was impossible; I said, Mr. Richard Annesley had gone to Barry Colles, my brother's and my uncle's attorney, and acquainted him, that he intended to put in a claim for the English honours; and could prove also, that his mother had been married before his birth; that Barry Colles had spoke to my uncle Annesley, that my uncle Annesley would be glad to see the claimant Richard, and that he had come to him concerning his claim, and that Richard was taking council's advice. I might have had a conversation with Mr. Flood, but I do not recollect any conversation concerning this, tho' I do as to conversations as to the title in England several times. This conversation, I am sure, was before Christmas, and, I believe, it was the first time, I ever spoke to lord Valentia, after he came to Ireland, except in the house of lords here, when his writ issued.

Cross examined for John Annesley.

I do know the petitioner John. I am a son of the late lord Glerawley; that family was related to lord Anglesey by the half blood.

Q. Was it not during the life of lord Glerawley always considered by your father and the whole family, that the petitioner John was the person to succeed to the Irish honours, if the late lord Anglesey died without issue male?

I am very sure, he was.

Q. Have not you heard, and don't you believe, that on the death of lord Anglesey John was advised by the family to take upon him the Irish honours?

I never heard it, nor do I believe it.

Q. Did you ever hear of a person of the name of Arthur Annesley, a petitioner here.

Not 'till very lately, nor did I ever hear of such a man having a title; I have heard, his father was a hackney clerk to Mr. White, and I do believe it. I never heard, that his father lived at Camolin. I heard, his father was sovereign or portrieve of Enniscorthy.

7th witness, Charles Tottenham.

I was well acquainted with the late lord Anglesey several years.

Q. Did you ever see a person of the name of Laurence Neil with him?

I do

I do not know his christian name, but have seen one Neil, a clergyman, with him; he had the habit of a clergyman, and I was told, he was.

Q. Was he in lord Anglesey's family in any capacity?

I don't know in what capacity; I believe, I have seen him in Ross, but particularly in Camolin park I have seen him very often.

Q. What was his general character?

As far as I have heard of him, he was a man of an infamous bad character. I never heard him spoke of otherways.

Q. Had you heard this character frequently?

Indeed I have frequently; at the time I saw him with lord Anglesey, he had that character, and have often heard him spoke of since as an exceeding bad character. What made me look on him as deserving it, was some behaviour of his on a publick occasion at Camolin-park. I was often asked to Camolin, particularly, I believe, of holyrood day, when lord Anglesey generally assembled his neighbours to a buck-hunt; I am not absolutely certain as to that day; a great number of people were present. We had dined with lord Anglesey; we had drank pretty freely, as common on those occasions; and late in the evening lord Anglesey called in a fidler, or some people playing in the hall on musick, to play in the room where we sat, and soon after there came into the room a black boy, that was kept by lord Anglesey, who desired the boy to dance, which he did immediately; and lord Anglesey called to Mr. Neil, who was sitting at the table, and said, Neil, get up and dance with the boy, which he did accordingly. During their dancing in this publick company Neil made so many indecent postures towards this boy, that were really offensive to me, and made such impression on my mind, coming from a clergyman, that I shall never forget it. It struck me with abhorrence, which makes me remember it so particularly well. I do not know, I ever saw Neil in the gown of a clergyman, but I think, I have heard him read prayers on a Sunday, but am not certain about it: He generally wore the habit of a clergyman undressed, and I have frequently heard him mentioned as a clergyman; and therefore suppose he was, I have no other information about it: I formed my opinion of Neil's character not only from the general reputation of the country, but from his indecent behaviour both before pa-

pists and protestants; and it distressed me the more to see a man behave in that improper manner, as several papists were present.

Cross examined on the part of lord Valentia.

Q. Had you drank very freely? Had Neil drank?

I am certain, he had; I believe, he was in liquor, but not drunk: I am sure, he was in liquor, for we had all drank a great deal. I don't believe, he was intoxicated; for I look on a man intoxicated to be out of his senses, and I do not believe, he was. I believe, he was as much in his senses as in the morning. I knew lord Anglesey a great many years; I believe from 1734 or 1735 to the time of his death. I believe, I knew him, when he was lord Altham; and I was a good deal with him immediately at the time of the death of his predecessor, and after.

Q. Did you know this Neil at any other place than Camolin-park?

I believe, I have seen him at Ross, but am not certain. I do not know, whether he officiated as a curate, unless I heard him read prayers at Camolin on a Sunday, but am not certain; and lord Anglesey brought him a sermon, I think, and made him read it.

Q. Can you recollect the time of this misbehaviour of Neil?

I believe, it was on holyrood day; because a vast number of people were assembled there, the 14th of September according to the old style. I am not certain, what year it was: have no recollection what year.

Q. Was it before or after the publick marriage of lord Anglesey with lady Anglesey?

I cannot tell. I had nothing at that time to induce me to remember the time, it happened; but the act was so striking, I shall never forget it.

Q. Do you remember the time of the publick marriage?

I do; but what year that was in, I could not learn; but I remember particularly the transaction; that is, I remember the report of it.

Q. The publick marriage was the eighth of October 1752. Had you, before that time any conversation with lord Anglesey touching any marriage with any person, and whom?

I had. I do not know in what year precisely, but I am certain, it was immediately before the publick marriage at Camolin-park, if

if the publick marriage was in 1752, it was immediately before it.

Q. Was your conversation with him in 1750?

I cannot tell; the affidavit, I made, was relative to the conversation with lord Anglesey before the publick marriage, if he was married publicly in 1752; if that fact was so, that conversation passed in 1752, for it was immediately before the publick marriage.

Q. What was that conversation?

I went one morning to see lord Anglesey, who lived then in a little house in Ross; and on going into the room I found him and his lady at cards. Immediately on my going in she threw down her cards and went out; as she always did, when I appeared; and I believe, it was so, when any other company came, that was above the lower sort, his tenantry. On her going out lord Anglesey asked me, what is the meaning, Mrs. Tottenham does not come and visit Julia? I was surprized at the question, and immediately told him, he could not expect Mrs. Tottenham to visit her, or to that purpose. He immediately replied, Sir, I have been married to her for several years; but there are some certain reasons, why I have not been able hitherto to divulge it, but I shall very shortly. Lord Anglesey repeated the matter to me, and pressed me a good deal to let Mrs. Tottenham visit his wife. I told him, he could not expect Mrs. Tottenham, or any woman who regarded her character, to visit his wife in the light, she then appeared; but that as soon as he thought proper to make his marriage known, no one would be readier to pay the compliments due to his lady than Mrs. Tottenham. Lord Anglesey, as well as I recollect, repeated the same discourse to me on a second visit a day or two after, and I gave him the same answer. In a short time after this discourse happened, lord Anglesey and his family left Ross, and, I was told, went to Camolin-park. He returned soon after, and then told me, he thought it necessary for satisfaction of the publick to marry his lady again, which was done at Camolin-park. This being confirmed to me by other people, Mrs. Tottenham immediately went and waited on lady Anglesey, and so continued to do, as long as she remained in Ross. This was the substance of the conversation, as near as I can remember.

Q. Was it a year before this publick marriage, that you had the first discourse?

The first and second discourse, I believe, was within two or three days of each other,

and it might have been a month or two before the public marriage at Camolin-park, which I only speak of from hearsay, and lord Anglesey's telling me he was publicly married. I made two different affidavits.

Q. Where did lord Anglesey live at that time?

In the house of Mrs. Napper. He and his family lived in the house. I do not know whether he turned Mrs. Napper out of the house.

Q. Do you recollect the year, lord Anglesey was in Ross?

He was there several years at different times; but I cannot recollect any one particular year.

Q. Was this before or after a remarkable election between Mrs. Ram and Mr. Leigh?

I am pretty certain, it was before, if that election was in 1753, which I am almost certain it was. Lord and lady Anglesey very often dined at my house, and my wife and I very often dined at their house, while they continued there.

Q. Look at that letter, a letter of your own, who was that wrote to?

I believe to lady Anglesey. I suppose, it is my my hand writing; there is no direction on it, but I am almost certain, I wrote it to lady Anglesey.

This letter read, marked (D) indorsed 9 July 1762.

"Madam;

"Some time since I had the honour of a letter from your ladyship by Walsh the carman. I obeyed your commands with respect to him, and hope he will not transgress for the future, as he has been so often faulty in that way, it will not be in my power to save him again. He promised to call on me the first time he went to the Park, which he failed to do, otherwise I should have acknowledged the receipt of your letter earlier."

"I am concerned to find some new attempts are made by various affidavits to give your Ladyship further disturbance, and sincerely wish you may effectually and speedily overthrow every person that means disturbance to you or the family of my late friend."

"Mrs. Tottenham joins me in compliments to you and the young Ladies."

"I am, Madam, your Ladyship's most obedient humble servant,

"Charles Tottenham."

D d

The

The date is not my hand writing, it is a forgery; it is a different ink, and put in by some other person; but the body of the letter is my hand writing. It is impossible for me to say, when it was wrote, as the date was not my hand writing.

Q. Was it during the contest before the attorney and solicitor generally, that you wrote that letter?

It is impossible for me to say. I did make two different affidavits on that occasion. I cannot tell, whether it was before or after that letter was wrote, that I made an affidavit.

Q. Was not the date put only to ascertain the time, when the letter was wrote?

By the freshness of the ink, that appears to me a late transaction.

Q. Was not that letter wrote during the inquiry before the attorney and solicitor?

I cannot recollect, whether it was or not.

Q. Do you believe, the contest about the peerage had been commenced before that time, or not?

I do not know; nor do I know, on what occasion I was called on to make an affidavit. That affidavit was made in this manner: A gentleman, with whom I had a discourse relative to lord Anglesey, asked me, if I would make an affidavit about it? and I said, I would; and he brought me a very full affidavit, and desired me to go before a master, and swear it. He inserted many things in it, I could not swear to, and I made him alter it; and I swore it, I believe, before master Stopford?

Q. Was it before that affidavit or after, that letter was wrote?

I cannot recollect. I cannot tell, what that letter could refer to.

Q. Did it refer to the disputes about the title of Valentia?

I cannot tell. This might have been in consequence of suits with several people then in being, for several suits were commenced.

Richard Annesley is married privately to an unhappy niece of mine, and though they live opposite my door in Rofs, I never spoke to her, since her marriage was discovered: for I held the act in so much contempt, that I would never take notice of her.

Q. Was that letter wrote in the life of lord Anglesey, or after his death?

I believe after, for if it happened in his life, I suppose I should have written to him.

Q. What do you mean by the words, Giving her ladyship further disturbance? Did

not it refer to affidavits, made to question the marriage in 1741?

It referred to affidavits made, but on what account is impossible for me to say now, for I believe, a hundred affidavits were made at different times relative to the affairs of lord Anglesey.

Q. Did you ever receive a letter without a date?

I have.

Q. Did you ever make a memorandum at the time of receiving that letter?

If it was a letter of consequence, in all probability I did.

Q. You made use of a hard name, forgery?

I did not use a harder name, than, I think, the attempt deserved.

Q. Is the date at all like the hand writing?

I imagine, the original date was erased there; for there is something of the same ink with my letter there.

Q. Is any place mentioned there, where that letter was wrote?

There is no place.

Q. What is the date writ there?

I cannot tell. There is the 9th, but I do not know the year, nor the month. I say, it is a forgery.

Cross examined for John Annesley.

After the publick marriage lord Anglesey commonly called her Juli in common conversation. I do not remember to have heard him address her as lady Anglesey?

Q. What was the reason of that surprize, you mention, at his application?

I was surprized, lord Anglesey should desire me to bring Mrs. Tottenham to visit a woman, I supposed, was not his wife at that time. I did suppose, she was not his wife.

Q. Did the declarations, then made by lord Anglesey, convince you to the contrary, that he had married her before?

No, really, they did not.

Q. After those declarations what was your opinion?

I never imagined, he was married to lady Anglesey, 'till he informed me of it after the publick marriage at Camolin-park.

Q. Did you then suppose, he had been married in 1741?

I did not suppose it: I could not from the appearance of things suppose it. I never did suppose it.

Q. Have

Q. Have you had any reason to change the opinion, you then entertained?

The question objected to.

The objection disallowed.

Q. Why did not you think, they were married?

I already mentioned it from the general appearance of things.

Q. Before 1752 what was the general reputation as to lady Anglesey's being married or not?

As far as I have heard, it was, that she was not married. I never did hear a person say, they believed, she was married before that time; and I have had conversations with numberless people on that subject.

Q. Had you an opportunity of knowing the reputation of that neighbourhood?

I had.

Q. Who was that gentleman, that applied to you to make an affidavit?

It was Ephraim Carroll, who lived then in Bride-street; and I happened to mention to him the discourse, I had with lord Anglesey relative to his marriage, and he came the next day to know, if I would make an affidavit. I believe, he was employed by lord and lady Anglesey. I do not recollect, that he applied to me in the name of any particular person.

8th witness, Robert Sibthorp.

Did you know a person of the name of Elizabeth Knight in Suffolk street?

I did. I lodged at her house about four or five months in 1765, I think.

Q. What was her general character as to credibility?

I happened to be confined in her house by a severe illness two months, which gave me an opportunity to know more of her; I looked on her as a good sort of a woman; I believe, she was a woman of good character, and I had particular reasons to think so, for my sister, Mrs. Gold, who had lodged there herself, knew her, and said, she was very glad, I was in such good hands. I know no-

thing of her circumstances, but she gave me a memorial in behalf of her sister, who was very poor, and whose chief support was from herself; she was the widow of John Smyth, the king's council, and I recommended her to lord Hertford.

Q. From what you have seen, and heard, and known of her, do you think, she is to be credited on oath, or not?

I certainly do.

Cross examined for lord Valentia.

Q. Did you lodge there more than once?

Never but that time. I never had any causes of knowledge of her but that and what my sister told me.

Q. Did she ever mention lord Altham to you?

Not that I recollect.

Q. Did you ever hear any other person mention lord Altham.

Not that I recollect.

Council for Richard Annesley.

We close here with this saving of liberty to produce Hawtrey White to some exhibits, if he appears.

Council for John Annesley being desired to proceed.

We have but one witness to produce, and, if this had been the first time, the merits of this great question was to be determined; should not produce one single witness; but lord Mulgrave having examined Mrs. Elizabeth Smalley in England, Mr. John Annesley knows nothing more of her; and, as he wants not to conceal any thing of the truth; but to give all possible information, because she was once examined on the same question, not from any want of her, for we do not know what she will depose, if they will not object to our not producing this woman, we will not produce her.

Adjourned until Tuesday.

Die Martis 19 May, 1772.

Lord RANELAGH in the chair.

Council called in, proceed for lord Valentia.

Twenty fourth Witness, the rev. John Nixon.

Q. LOOK at that parchment and at the back of it, do you see your name on the back?

I do.

Q. Who wrote the name on the back?

I wrote one name, lord Loftus another, Mr. Drake another, Mr. Boyd a fourth.

Q. What is that, you have in your hand?

It is the will of the late earl of Anglesey, which he executed in my presence, and in the presence of those persons, he acknowledged that to be his last will and testament.

Q. At what time?

To the best of my recollection it was in the year 1760, or late in 1759, but I believe, in 1760.

Q. Look at the date of it?

It is the 7th of April 1759.

Q. Was that will executed on the day, it bears date?

It certainly was.

Q. Was lord Anglesey on that day of sound and disposing mind?

He surely was.

Cross examined for John Annesley.

Q. Where do you live now?

In the county of Fermanagh.

Q. How many miles from this?

Eighty five.

Q. Where does Mr. Drake live?

In the county of Wexford, a little beyond Ros; about 60, or 66, or 70 miles from Dublin.

The will read.

Council for Richard Annesley, proceed.

9th witness, Hawtrey White.

I am a son of Mr. James White. James White was agent to lord Anglesey, received his rents.

Q. Did he transact all his business of payment of money, or not?

Not all his business; he paid his steward money, and took the steward's receipts; that steward's name was Charles Kavanagh. My father is dead; my father himself took those receipts, I suppose, for I got them among his papers.

A paper, No. 1. shewn to the witness.

Q. Did you ever see that paper before?

I did. I got it among my father's papers since his death.

No. 2, 3, and 4 shewn to him.

I also found these receipts among my father's papers.

Another paper shewn, marked (E)

I found this among my father's papers. I am not so well acquainted with the hand writing of lord Anglesey as to enable me to prove it; I have seen him write; I cannot swear, that this is, but I believe, it is lord Anglesey's writing, because I found it among my father's papers.

Another paper marked (F) shewn.

I found this also among my father's papers; the writing on the back of it was written partly by my father, and partly by my brother.

Cross examined for lord Valentia.

Q. How long ago since you found those papers?

Last February twelve months.

Q. How long is your father dead?

Twelve months last June.

Q. Was your elder brother married to any person?

To

To a daughter of lord Anglesey's. Her name was Caroline; her mother was called lady Anglesey, at the time she was married, and the daughter lady Caroline. That mother's maiden name was Ann Simpson, as I was told. My brother's wife is still living.

Charles Tottenham called again to prove the hand writings of lord and lady Anglesey.

Q. Look at that letter marked (E) whose hand writing is the name signed to it?

I believe, it is the hand writing of lord Anglesey.

The paper marked (F) shown to him.

I am not so well acquainted with the hand writing of the present lady Anglesey; I have seen her write, but very seldom, but I believe, it is her's.

The hand writing admitted.

Cross examined for lord Valentia.

Q. A will has been read, in which you are appointed a trustee, did you act under that will?

I never saw the will or heard it read before this day. I have only acted by answering two different bills. I was subpœn'd, and sent the subpœnas to Mr. Mark White, lord Anglesey's law agent, and desired him to do what was necessary about them; I am not certain, whether I answered them or not.

Q. Did you ever present a memorial in behalf of lord Valentia to any governor of this kingdom?

No; But when the duke of Northumberland was governor, Mrs. Simpson was admitted to take place at the castle as countess. I was applied to by Mr. Talbot, who is married to lady Anglesey, and desired me to interfere. I told the person, who applied to me (which was Mr. Talbot, I believe, but, am not certain) if he could get me a proper memorial, I would take it to the lord lieutenant; which I accordingly did. I do not recollect, what the substance of it was, but the purport of it was setting forth, that this woman took place at the castle, which was the right of the present lady Anglesey. It was on her account, I interfered, or some friend of hers applied to me.

Q. Did you make more than one affidavit?

I did two. I do not remember the time.

Q. What were the occasions? Was one to be laid before the attorney general? Were they made to support the petition of lord Valentia?

I am not certain, but I believe, they were. The affidavits, I made, were only relative the discourse, I had with lord Anglesey immediately before his last marriage in 1752. I am not certain, what was the intent of the affidavit; I never inquired.

Q. How long after the first affidavit was the other?

I believe, the other affidavit was made about 4 years ago. I am not certain how many years after the first; it was not several years; they were both made between 1760 and 1770 certainly; I cannot tell, how many years after the first the second was made.

Q. Was the last affidavit made in order to be sent to England?

I cannot tell. I was applied to by lord Valentia by letters to go to England upon the hearing; and I informed lord Valentia, I had already made two affidavits as to the discourse, I had with his father, and that my opinion was, that a cross examination would be injurious to him. I was applied to by Mr. Talbot, immediately after I received those letters from lord Valentia, who was then, I believe, lord Anglesey, I told him, that I had already made two affidavits, that if the council on the other side should ask my opinion, in what light lady Anglesey or her children appeared to me.

Q. Your conversation with Mr. Talbot is no evidence. Was the last affidavit made to be sent to England?

I cannot tell, whether it was or not.

The witness desired to see a letter of his, which was shewn here the other day.

Saying, it was asserted, there was no date to this letter; and that for that reason a date was substituted at the bottom. But it appears, there was a date, part of which now remains of the same ink with the letter, part destroyed by fresh ink, and therefore the intent, I suppose, was, that the date to it before did not answer the purpose; and there is a memorandum on the back of the cover, written by lady Anglesey, in which the time of the receipt of the letter is mentioned, and therefore it could not be with that intent done. I must adhere to my original answer, that the date there is a forgery.

The letter marked (E) read.

To capt. James Whyte at Peppards castle in the county of Wexford.

Bray, July 17th, 1746.

" Dear Sir,

" As Mrs. Donovan is to supply my house at Bray and for other directions I have given her, I must desire you'll supply her with what small sum or sums, she shall have occasion for, and place it to the account of your humble servant,

" ANGLESEY."

Paper marked (F) read.

" Received from Mr. James White the sum of eight pounds for the use of the earl of Anglesey's house, this 31st day of July, 1746

" JULIANA DONOVAN."

Present Charles, Kavanagh.

2d Witness called on the part of John Annesley.
Charles Farran.

I am deputy clerk of the pleas in the court of exchequer. I have got in my hand the roll of judgments for Trinity term 1749, belonging to the exchequer. I have a copy of a warrant of attorney, by which satisfaction was acknowledged on the record, and an affidavit of the perfection.

Q. Where judgments are entered in your court, what is the usual method to acknowledge satisfaction on the record?

When the party, who executes the warrant, either the plaintiff or the representatives, a copy of that is made, and an affidavit of the perfection of that warrant is made, and that warrant is filed in the office, and this is the warrant to the officer to acknowledge satisfaction, let the sum be what it will.

Q. In whose hands does the original warrant remain?

In the attorney's who signs the record; that is his voucher. We never let an attorney sign it, but the attorney who has the warrant. We have always an affidavit of the perfection of the original warrant, sworn by one of the witnesses to that warrant of attorney, of which the above is a true copy, and that the name is of his hand writing. Sometimes the at-

torney makes the affidavit under the original, if he happens to be witness to it; and it is very rare, that it is filed; we discharge without seeing the original.

Q. Was the original brought in that case, or only a copy?

Only a copy.

Q. Who was the attorney to that warrant?

The warrant was directed to John Anderson; the satisfaction was signed by James Young, who is dead 15 or 16 years.

Q. Who was the witness, that made an affidavit of the perfection of the original warrant?

John Ians and Thomas Smyth are the two witnesses, but Ians made the affidavit.

Q. Have you found any other judgment among the rolls, Juliana Donovan against Edward Hay of Ballinkeel in the county of Wexford, gentleman?

I find on searching the records Trinity Term, 1750, such a judgment for 600l. penalty.

Q. Who was the attorney on record to that judgment?

Mr. Arthur M'Guire, now fix clerk. He it was entered up the judgment.

Q. Was he related to the Anglesey family;

I cannot tell.

Cross examined for lord Valentia.

Only the copy was brought in that case.

Q. Then the only authority for discharging that was barely the affidavit of Ians?

Barely that affidavit of Ians's; satisfaction was acknowledged Trinity the 24th and 25th of George the 2d, 1751.

Q. Is that an affidavit made in the office?

No. It was made before a commissioner in the country; the commissioners have a power to receive those affidavits. We never take them in the office; we have no power to swear an Affidavit to that.

Council for John Annesley.

Q. Is that the usual method of acknowledging satisfaction on the records of judgments in all the courts?

In the king's bench the method of acknowledging satisfaction is the same, except that the attorney does not sign them; the officer signs them there, the originals never are filed

filed; very rarely; in the common pleas the method is the same.

The record of the judgment in 1749 was read.

Juliana Donovan, spinster, against Francis Annesley.

An objection thereto being over-ruled.

Q. Is satisfaction acknowledged on the record of that judgment?

It is.

Q. By what authority was satisfaction acknowledged?

By virtue of a copy of this warrant, and an affidavit verifying the truth of it.

The reading this copy was objected to, and it was not insisted upon.

The other record was read by the witness of a judgment by Juliana Donovan against Edward Hay in Trinity, 1750.

Q. Is there any satisfaction acknowledged on the record of that judgment?

There is not.

Cross examined.

Q. Did lady Anglesey ever receive any part of the interest or principal of this money?

I know nothing at all of the matter?

Q. Do not you believe, Judgments are often entered in the names of people, who know nothing of it?

I do believe it.

Adjourned until tomorrow.

Die Mercurii 20 May, 1772.

Lord RANELAGH in the chair.

Council called in.

The case stated by Mr. Walker, for the petitioner Arthur Annesley.

My Lords,

I am of council in this case for Arthur Annesley, esquire, who claims the honours of viscount Valentia and baron Mount Norris, in case your lordships shall find, that Richard late earl of Anglesey died without issue male; and I must submit it to your lordships, that even if he did leave issue male, it would be a matter not unworthy your lordship's deliberation to establish the person or family, who should succeed to these honours upon a failure of issue male in that first branch at a future day; and more especially as the person, from whom this gentleman deduces his title, has been dead one hundred and thirty years and upwards; and therefore that it cannot be expected, we should ever have more light in this case, than we have at present. Sir Francis Annesley, first lord viscount Valentia, had issue by his first lady Dorothea, daughter of Sir John Philips, five sons, Arthur his eldest son, who was afterwards created earl of Anglesey, and from whom descended Richard the late earl; Robert his second son, under whom we claim, married a Miss Knowles, the daughter of a goldsmith

in London, and died leaving issue one son, William Annesley, who married one Mary Mason, by whom he had issue three sons, John, Ebenezer, and James, and one daughter, and died in the year 1707, aged 70 years and upwards; John his eldest son left issue Henry and George, both of whom died without issue male; Ebenezer, his second son, died without issue; James his third son married Susanna Sicklemore, and died in the year 1702, leaving issue three sons, the eldest of whom, William Annesley, married Mary Coles, and died in the year 1767 leaving issue three sons, of whom Arthur the present claimant is the eldest. We shall prove this case, we hope, to your lordships satisfaction; the first witness, we shall call, is John Annesley, the youngest brother to the claimant's father.

First witness called.

John Annesley.

Q. What was your father's name?

My

My father's name was James Annesley ; my grandfather's name William Annesley, who died in 1707. I shall be seventy-four years old next August.

Q. Was William your grandfather alive in your memory ?

He was. I was about eleven years of age, when he died.

Q. Whose son was that William reputed to be ?

I heard my grandfather telling my mother and several other gentlemen, that my great grandfather's name was Robert.

Q. Did you ever hear, whose son he was, at that time ?

I cannot say particularly to that ; but as far as I have heard, his name was Francis lord Mount-Norris. Robert, I think, was the second son of Francis, but I can't be positive as to that ; and, I believe, John was the next son after him, as I have been informed.

Q. Did you ever hear, that Robert married any person and whom ?

I heard, he married one Knowles. I think, he had issue by that marriage my grandfather William.

Q. What was the reputation of the family, how the descendants of Robert stood in succession to the honours of Valentia ?

They were deemed near relations to the earls of Anglesey.

Q. What issue had William ?

He had three sons. My grandfather had one, I never saw, his name was Ebenezer.

Q. What was the eldest of those sons of William called ?

His name was John.

Q. Did he marry any person ?

He married Mary Chambre. I knew them both. He was my godfather ; he left issue Henry and George, who are both dead : I knew them both very well, and went to school with them ; and they died without leaving issue. Ebenezer died, before I was born, without issue. I cannot say, what age he was of, but I do not doubt, he was above twenty.

Q. What was the name of the third son of William ?

James.

Q. Who did he marry ?

Susannah Sicklemore. He died in 1702. He left issue male three sons ; the name of his eldest son was William, my brother, who married Mary Coles. He died, I think, about six years ago.

Q. What issue did he leave ?

Two sons now living, Arthur the present claimant and Philip.

Q. How came you to remember your grandfather William ?

He lived in the house, where I was born, and where my father and mother lived, at Newbridge in the county of Wexford about four miles beyond Goree.

Q. How long did he live with your mother ?

I cannot say how long ; he lived certainly many years.

Q. Had he any conversation with your mother touching his family and pedigree ?

I do remember, she with other persons were enquiring, what my great grandfather's name was ; and my grandfather frequently told them, his name was Robert ; and my mother afterwards told me so many times, and told several others.

Q. Do you remember the earls of Anglesey, James, John, and Arthur ?

I remember every one of them coming to visit at my grandfather's house.

Q. In what light did they look on her ?

They looked on her and us as relations, and called us cousins.

Q. Do you remember, earl Arthur's being any way particular as to directions, touching your mother's children ?

I do. Arthur, late earl of Anglesey, lay at my mother's for some time, when his house at the Park was burnt ; and he desired my mother to keep those children at school ; called her cousin, and said, when they were scholars, he would take care to provide for them. I did know Richard, late earl of Anglesey : I was introduced to him at the Hog in armour in James's-street at one Hog's.

Q. Did his lordship at that meeting acknowledge you as a relation ?

I was introduced by one Smith ; and he told Smith, that he knew me very well, and that I was a sadler, lived in Kevin's-street ; and my lord said, my name was Annesley. He was not lord Anglesey at the time of that meeting, he was only lord Altham, and lived at Inehicore then.

Q. Did you mention the family of Ballyfax ?

I did. I asked him, if he was acquainted with the Annesley's of the county of Kildare ; he said, he knew them very well, but that we were an elder branch of the family, than they were.

Q. Did you ever see him afterwards ?

I did.

I did. He came to Kevin's street and bespoke a side-saddle for his lady, that lived with him at that time.

Q. Did he then say any thing touching your branch of the family?

He told me, we were the next heirs to that family of his lordship after his death, and after the death of lord Anglesey who was then living, and after the death of Charles Annesley without issue.

Q. Did you ever see him, after he became earl of Anglesey?

Several times.

Q. What account did he give then?

I happened to go to Bray along with him, after he was earl of Anglesey, and dined there with him; and then he acknowledged me to be his near relation in the publick company at dinner.

Q. Were there any lands granted to your family by any of the said earls?

There was to my grandfather William by James earl of Anglesey.

Q. Were they at rack-rents, or how?

They were leases for lives, renewable for ever, of fourteen town lands in the county of Wexford. I am sure, of four there was, but, I believe, there was of the whole.

Q. Was the full value of the lands at that time reserved?

I think, they were set at twelve pence or eighteen pence an acre, I can't be particular. That was certainly greatly under the value.

Q. What was the inducement to grant such leases?

I believe, it was, as he was his natural relation, and in friendship and love, no manner of doubt of it.

Q. If Richard, late earl of Anglesey, died without issue male, who, do you believe, intituled to the honours of Valentia and Mount-Norris?

I believe, the present claimant, Arthur, my nephew, is the right Heir.

Cross examination on the part of John Annesley.

Q. When did Richard lord Anglesey die?

I believe, Richard late earl of Anglesey died ten or eleven years ago, I can't be particular.

Q. Did you hear of his death, about the time it happened?

I did.

Q. Have you a regard for this nephew?

It is natural to have a regard for relations.

Q. Did not you hear, there was a controversy about the honours of Valentia soon after the death of the late earl of Anglesey?

I did.

Q. Did you make any affidavit at that time?

I did not.

Q. Did you put in any claim on behalf of your nephew?

I did not.

Q. When did the father of the claimant die?

About six years ago.

Q. Did he live some time after the late earl of Anglesey?

He did.

Q. Did he put in any claim?

I do not think, he did; he was brought up to a business, to the law, an attorney. Served his time to one Beecher an attorney in Bride-street.

Q. Had your brother William as good an opportunity to know the pedigree of this family as you?

I can't say. George the son of John took this pedigree some years ago, and when he died, he left it with his widow, who gave it me, and I sent it to my brother to Gorey.

Q. What became of it since?

I do not know. I believe, he was indolent, and never minded it. It was set forth in that pedigree, that my great grandfather's name was Robert.

Q. Was you, with George, when he got out that pedigree?

I was.

Q. When did you see that again, after he got it out?

I saw it immediately after he got it out; but I can't say when afterwards, for he kept it in his own possession; for it was of use to him, and none to me at that time. I do not know, but I saw it in a month after, but cannot positively say.

Q. Can you take upon you to swear, you ever saw that pedigree between a month after it was taken out, and the time you saw it in the hands of George's wife?

I cannot swear positively.

Q. How long did George live after taking out that pedigree?

He is dead upwards of twenty years.

Q. Did he live ten years?

I cannot

I cannot be positive, but I believe, he might. I do not know, but he might.

Q. Are you certain, he did not live fifteen years after ?

I cannot say, how long he lived after : I am not certain, that he did not live fifteen years after.

Q. How long after the death of George did his wife give you this pedigree ?

Soon after; it might be about a twelve-month after, I cannot say positively. She said, it was of no use to her.

Q. Did you put any mark on that pedigree, when George shewed it to you ?

I did not.

Q. Will you swear positively, this pedigree, which you have not seen for ten or fifteen years, is the same pedigree, George took out ?

I believe, it was.

Q. Will you swear positively to it ?

I will not swear positively to a thing, that is too long ago for me to recollect; but I do believe, it was.

Q. To whom did William serve his time ?

To Mr. Beecher an eminent attorney.

Q. Was not he clerk to Mr. Mark White ?

No, he never was.

Q. Did he write in his office ?

He never did.

Q. Where did William your brother principally live ?

In Gorey.

Q. How far is that from Camolin-park ?

About five miles, I believe.

Q. Where did he die ?

In Gorey.

Q. Had he been resident at Gorey from the time of the late earl's death 'till his own death ?

He was.

Q. Did William ever mention in the family after the late earl's death any claim, that he had at the earl's death, if the late earl died without issue ?

He seldom came to Dublin; and I have lived in Kevin's street almost forty years; so that I had no conversation on that subject with him for many years.

Q. Did he ever mention in the family any claim, he had to the honour of Valentia on a supposition of the late earl's dying without issue ?

I cannot say, I ever saw him since, and do not believe, I did : I do not believe, he was ever in Dublin since.

Q. Did he ever make any such claim, or not ?

I cannot say, whether he did or not.

Q. Do you believe, he did or no ?

I cannot say, whether he did or no.

Q. Can you form any belief about it ?

I do not know, but he might. I believe, at that time he did not make any claim.

Q. Did he ever make claim since the late earl's death ?

I cannot say. I do not doubt, but he might. I cannot form a belief, whether he did or no. I do not know, whether my brother had as good an opportunity as I of knowing the pedigree of the family, but I sent to him the pedigree, and I do not know, whether he ever troubled his head about it, for he was an indolent man.

Q. At what time did you send the pedigree ?

Many years ago; I believe, eighteen years ago.

Q. Where did you learn this account, you have given of your pedigree ? Was it out of that paper, the widow gave you ?

No, it was not out of that, I had it from my forefathers; from my grandfather and my uncle, and my relations Henry and George, and from my mother, that my great grandfather died abroad.

Q. When did your grandfather die ?

In 1707.

Q. You was but nine years old then; was you when nine or eleven years old very curious in this ?

Indeed, I believe, I was; for I was always a very comical little fellow.

Q. Upon the death of the late earl of Anglesey did you write to your brother to put him in mind of his title, or send to him ?

I did not; for I had something else to do, to mind my trade and business.

Q. Are you acquainted with the family of Ballysax ?

No; but I have seen their forefathers Frank, Maurice, and John, at my grandfathers.

Q. You said, the claimant is descended from Robert, second son of Francis. Did you ever hear a report of that Robert dying very young ?

He could not be very young, for he had my grandfather. He might marry at eighteen perhaps.

Q. Did you ever hear in the family, where he died ?

I can't say; he died abroad.

Q. Did

Q. Did you ever hear it reputed in the family, that he died without issue?

I never did.

Q. How many children had Francis, the father of that Robert?

Three, I believe, at least; or four. I can't say how many.

Q. Did you ever hear, he had any sons by a second wife?

I cannot say.

Q. Did you ever hear?

I cannot say. I cannot pretend to say a thing, I did not hear; he might have two Roberts, for ought I know. I can't give any account of them, only the one I mention.

Q. Did you ever hear, he had two Roberts? Or that it was so reported?

I did not; but he might for ought I know.

Q. What put that in your head then?

It was a silly expression perhaps to say a thing, I knew nothing of; any more than surmise. Francis was the first earl of Anglesey, as I heard my grandfather say.

Q. Is that the reputation of the family?

It was, I think.

Examined by the Committee.

Q. Where did you get that pedigree?

It was taken out from one Linagar.

Q. Who was he?

I was informed, he was a herald at arms; he lived in Chambre-street at that time.

Q. Who was the first Lord of the Annesley family?

I believe Sir Francis. I cannot say positively.

Q. What titles or honours was he created to?

Lord Baron Mount-Norris, and Viscount Valentia.

Q. Any others?

I cannot say, at that time. I do believe, he was afterwards lord Anglesey.

Q. Are you equally sure of that as of the first creation?

I believe it equally.

Q. If the late earl died without issue male, would your Nephew Arthur have a right to the title of earl of Anglesey?

I believe, he would: My brother would, if he had lived, and my nephew in the same way.

Q. Did you ever hear of relations of the name of Courteen?

Never; I knew not such a family.

Q. Had your great grandfather Robert a brother, whose name was Peter?

No.

Q. Or brother George?

Not that I can recollect to have heard.

Q. Or Samuel?

No.

Q. What other relations had you besides of your father's or grandfather's?

I remember my uncle, my father, and grandfather, when I was a child.

Q. Can you recollect any relations in the county of Wexford?

Yes; the Coles, and the Whites, and Philpots.

Q. Any other can you recollect?

I cannot say.

Q. Do you recollect any of the name of Annesley?

Yes, surely, there was my uncle's family John Annesley.

Q. Any other.

There was no other, but my own family.

Q. Do you remember any other, of the name of Annesley?

No, I do not.

Q. Do you remember your relations marrying into other families?

Yes into the Cole's family; though they were relations before.

Q. Have you ever heard it said, that your grandfather had any sisters?

I cannot say. I believe, he might have a sister married to one Mason, a goldsmith in London; for I remember to have heard, that a coral and chain was sent to me from him.

Q. Had your great grandfather a sister, named Dorothy, or Catherine?

I cannot recollect. There never was any such question asked me. It was other gentlemen were talking to him about the family.

Q. Did he tell you any thing of his aunt's or uncle's names?

No.

Q. Did you never hear of one Jane Courteen?

Never.

Q. Did you ever hear, that Sir Francis had two wives?

I never did.

Examined for the Petitioner John.

Q. How did you know Lynagar to be a herald at Arms?

He said so.

Q. Where did you see him deliver that pedigree to George?

In

In Chambre-street, I believe, or Pimlico; some where that way in the Liberty.

Q. At whose house was it, where he lived?

I cannot say, whose house.

Q. Was any office kept there?

I seen no office.

Q. Did you ever hear, whether Robert, or his father Francis, died first?

I believe, Francis died first. I can't say surely, but I believe he did.

2d Witness, Mary Edwards.

Q. What age are you?

Seventy two, I think. Edwards is my maiden name.

Q. What was your mother's maiden name?

Elizabeth Annesley.

Q. Whose daughter was she?

She was daughter of William Annesley.

Q. How long is your mother dead?

Above fifty years. I was not above nine or ten years old, when she died. I do remember William Annesley, who was my grand father; and I remember my uncles, when I was a little child. I heard my grand father's father's name was Robert Annesley, but I never seen him; I believe, he was gone, before I was born. I never heard, who was the father of Robert.

Q. Did you ever hear, that William your grand father was related to the Anglesey family?

Indeed I did hear that, but cannot say what relation. I saw lord Anglesey at my father's, and he called my mother cousin.

Q. Do you remember the earls John, James, or Arthur visiting your mother?

Indeed I do. Earl John or James, I can't tell which, I remember, gave me money, I believe, it was the middlemost of the three, and he offered to renew a lease, and my mother was weak enough to refuse it modestly, till he came again, which he never did; and he offered to take my little brother, and make a page of him.

Q. Did you ever hear any of those earls say, what branch of the family, or what rank your family held?

I do not remember, he might, and I not remember it. I was a child.

3d Witness, John Annesley.

Q. Who was the father of Robert?

I never heard, who was the father of Robert; William never told me. I was but a child.

Q. Do you know John Annesley, that was just now examined?

Yes. He is a near relation, a little older than I; we are brothers and sisters children; we went to one school together.

Q. Was you as well acquainted with William Annesley, as that John Annesley was?

I was, barring that he was two years older than I. I remember to have seen him well enough.

Q. Was you present frequently, when William your grandfather mentioned any thing of the family?

I was a child, and I do not remember any thing about it.

Q. Was it not from your grand father William, that you got this account?

Yes, to be sure, and my mother and uncles all together.

Q. Did you ever hear of Miss Knowles?

I did.

Q. Did you ever hear of her being married to any of your family?

I did, to my grandfather William. I cannot be sure, whether it was Knowles or Mafson he married. I know nothing of one Miss Knowles.

3d Witness, Elinor Murphy.

Q. What was your maiden name?

My maiden name was Edwards, my mother's name was Martha Jewel.

Q. Did you know lord Altham, that had but one eye?

I have seen him.

Q. Did he visit any friend or relations of yours?

I have seen him at my father's house; my grandmother's name was Elizabeth Annesley.

Q. What relation are you to the claimant Arthur?

His father and my father were brother and sister's children; we are second cousins.

Q. Did you ever hear this lord Altham say any thing of the branch of the family of Annesley, that you are related to?

When I was a little girl, he has been at my father's, and took me in his arms, and told

told me, if ever he came to be earl of Anglesey, he would give me a fortune.

Q. What was the reputation of the family, touching the branch of the Annesley's you was related to?

My grand mother, Elizabeth was daughter to William Annesley of Rossmenoge, and lord Altham always called my father and my grand mother cousins.

Q. What was the reputation of the family, as to the succession to the title of Valentia?

I cannot answer; I was a child, except that I heard my father say, his cousin William Annesley was next heir, if lord Altham died without issue. There were two other brothers, Henry and George, children of another brother, they were of the elder line, but were dead a good while before my father died. My father had been receiver in the family to Arthur lord Anglesey before my time, and said William was the next heir after Henry and George died; who were the sons of the eldest son. Old William Annesley was my great grand father.

Cross examined for the petitioner John.

Q. How old was you, when lord Altham put you in his lap?

About eight years old. William the attorney was Henry's uncle's son.

Q. Was not it Arthur lord Altham, that told you so?

It was the man, that was blind of an eye; his name was Arthur, I believe. I was not acquainted with the father of the petitioner; since Harry and George died, I did hear, that he was to be earl of Anglesey.

4th witness, Ann Annesley.

Q. What is your name?

I am a widow of George Annesley, his father was John Annesley, they are both dead. My husband left no issue male. I was married about twenty years, before my husband died; I was married in 1731, and he died in 1751; he has told me, there was an alliance between his family and the Anglesey family; I have heard him say, that he himself was next in alliance after Richard late earl of Anglesey and captain Charles Annesley. I asked him, whether Francis of Ballyfax was a nearer relation of the family? he told me, they were equally allied to the Anglesey family; but that he himself was an elder branch of the family than Mr. Annesley of Ballyfax; he said, he would be next in remainder after Charles Annesley, if lord Anglesey died without lawful issue. My

husband's father had another son, Henry, who died without issue male. John, my husband's father, had two brothers named Ebenezer and James. Ebenezer died, as I was told, before I was married; he did not leave any issue, that ever I heard. James left two sons, William and John.

Q. Had William a son at his death?

Yes, I have heard, he had.

Q. What was his name?

Arthur, and he had also Philip, now surviving.

Q. Did your husband say, his family was nearer or further off?

The same alliance to the Anglesey family, but that my husband's family was the elder branch.

Cross examined for John Annesley.

Q. Did your husband know, the late earl of Anglesey had no children?

He had three daughters.

Q. Did not you expect to be countess of Anglesey yourself?

My ambition did not lead me to that, for I did not expect to live to that.

Q. Did not you talk of it to your company, and take place of your companions on that account?

I never did; never boasted of it in my life.

Q. Did not your husband boast of it?

Never further than in conversation among ourselves.

Council for the petitioner Arthur said, they had other witnesses summoned, but not yet come.

Proceed for the petitioner John Annesley.

2d Witness, Elizabeth Elton called.

Q. What is your name?

My name was Elizabeth Smalley, now Elton. I was married before to Richard Donovan.

Q. Do you know a lady once Juliana Donovan?

I do; she was sister to Richard Donovan.

Q. Was your husband in any capacity under lord Anglesey?

After Charles Kavanagh he acted as steward for some time at the house of Bray; he was there, from the time Kavanagh came there, 'till Kavanagh died. I was very well

G g

acquainted

acquainted with Charles Kavanagh; he died at lord Anglesey's house in Bray about twenty years ago; he was buried in Bray.

Q. Look at that pocket book very carefully?

I wrote my name in it in England, if it is there, I will tell you. Yes, this is Charles Kavanagh's pocket book.

Q. Had you it ever before?

I had; I took it out of his pocket, when he died at Bray. He gave me up all his things, little papers, and trifles, that he had. I did attend him in his last illness, and his last words, he bid me take an account of his things and cloathes. I gave them to Thom. Smyth, who served as cow boy, dug potatoes, and did other things about the house.

Q. Was Thom. Smyth examined upon this trial?

Yes he was, Thom. Smyth the cow boy; I did not see that Thom. Smyth in England at all.

Q. Do you see the name Charles Kavanagh in that book?

Yes; he put his own finger on this, and said, See, I was witness to a marriage in Cabragh Lane. His own finger shewed it me.

Q. Is that Charles Kavanagh's hand writing in that pocket book?

I am sure it is his hand writing, as that God made the world.

Cross examined on the part of lord Valentia.

Q. How often have you been married?

Four times. My present husband is my fourth. My first husband was Richard Donovan.

Q. Who afterwards?

John Eden of Huntington, of a gentleman's family, he was an ensign in the royal Scotch, he died in Bray.

Q. Was your first husband of a gentleman's family?

He was of a very good, genteel, family both by father and mother indeed; his mother was of the Nixons, a family of repute, and who have an estate in the country; but my husband's father was reduced in the latter time of his life to a low ebb; but that did not make him less a gentleman.

Q. Who married you to Richard Donovan?

A minister in Cork; I don't know, who he was; he was a minister.

Q. Who married you to Eden?

Laurence Neil at my house in Bray in 1761 or 1760. I can't tell which.

Q. Was he a clergyman of good character?

I never heard any thing of his character, or to his prejudice: He was very poor: He had no living, that I know of, but some of the clergy made up for him. I often gave him charity myself; a little bowl of butter, and cheese, and those sorts of things. I never heard any thing to the prejudice of his character.

Q. Did you make an affidavit once as to the goodness of his character?

I did, from what knowledge I had, that he had a good moral character.

Q. How long ago since you made that affidavit?

I cannot tell the date of it.

Q. Did you ever make any other affidavit?

I did.

Q. What was that to?

To Charles Kavanagh's death. Counsellor Donovan, Mark White, Mr. Walker the notary publick, and John Ians, came to Kilcool from the county of Wexford, and sent to Bray for me. Mr. Eden, my husband, would not let me go at all. I did not go, to be sure; and counsellor Donovan, Mr. White, and Mr. Walker came to Bray to Charly Moran's. Counsellor Donovan asked me, if I would make an affidavit as to Kavanagh's death; and I said, I would send for the woman, who laid him out; and when the woman, came, he asked me, if I ever heard lord Anglesey call Mrs. Donovan lady Anglesey. She was called by lord Anglesey July and August. She was called miss Donovan when I went to the house; and lord Anglesey said, it looked very odd, that a gentlewoman big with child should be called miss. And he said, you must be called Mrs. Betty, and I was called so two or three days in the house, and my husband would not suffer it. And lord Anglesey said, well you may call her Mrs. Dick; and so I was called Mrs. Dick Donovan, and she was called Mrs. Donovan.

Q. Which affidavit did you make first?

I can't tell which; but the last I made, I think, but will not be positive, was that I made at Moran's. Counsellor Donovan also asked the woman, whether she ever heard her called lady Anglesey, and she said no.

Q. Did

Q. Did you ever hear her called lady Anglesey?

Not 'till after she was married to lord Anglesey; I heard a hundred call her so afterwards.

Q. What was the occasion of your making those affidavits? Were they to be used in any contest or litigation?

I do not know, what a litigation is.

Q. Did you ever hear at that time of any contest about the legitimacy of lord Valentia?

No, I did not hear that at that time. I took it to be a contest about the ninety nine year leases.

Q. Had you ever seen a certificate of the marriage of lady Anglesey, before you made either of those affidavits?

I can't say, whether it was before or after; it was after, I believe. Mr. Talbot shewed me the certificate in Bray, but whether it was before or after, I cannot say. I heard of the certificate, for Neil told me how it was.

Q. How could the character of Neil be material as to those ninety nine year leases?

I cannot say: I never heard, that Neil was a witness to those ninety nine year leases.

Q. Was Kavanagh any way interested in those ninety nine year leases?

I cannot tell; he was dead.

Q. How came it to be material, that the death of Kavanagh should be required from you?

It was my brother Richard Donovan, that asked me; and said, they were on nothing of any consequence.

Q. Do you know Cornelius Donovan?

Very well.

Q. Was he a gentleman of good character, and a conscientious man?

Yes he was, and I loved him well. I have known him, ever since I was married. I am sorry, he had any hand in what he had, the signing the certificate; in putting Nixon Donovan's name to it.

Q. How did you know, he signed the certificate?

From the knowledge of his hand, and from the information of the minister Laurence Neil.

Q. Did Cornelius Donovan tell you any thing about the certificate?

He never did, never a word; it was Laurence Neil told me.

Q. What did Laurence Neil tell you, about the certificate?

In some time after I heard lord Anglesey had been married, up the country, Neil said, it was no such thing; and, I believe, in a month after, Neil came down, and called at my house, and lay there that night, and said, I have married your sister. To whom? said I. To lord Anglesey, said he. What, has he not a wife and children? said I. Neil said, That is no matter; we made out a certificate too. How did you do that? said I. I wrote the body of the certificate, said he; and, said he, Cornelius Donovan and Jack Ians signed the witnesses to it, and it was antedated; this certificate at the publick marriage was brought down, and held up at a distance; and that lord Anglesey said before the company, Mr. Neil is this your hand writing? Yes, said Neil, that is my hand writing, I will give my oath, said he. But, said I, would you give your oath, that you married them that year it was antedated to? No, not for the universe, said he.

Q. How long after the marriage in 1752 was this?

I cannot say. To the best of my knowledge, I think it was a month; I will not say positively, but what I am very sure of. My husband Richard Donovan was present, when he told me this.

Q. Was it in the morning?

No, it was in the evening, for he lay there that night. It was the evening he came from Camolin, after supper-time I believe.

Q. Did he communicate it as a secret?

He did not bid me tell it to any body. Said nothing of a secret at all.

Q. Was it after this, you made the affidavits?

I cannot say, but believe, it was.

Q. After this you made an affidavit, that Neil was of a good moral character?

Poverty might have obliged him to it, as lord Anglesey allowed him twenty pounds a year out of Bray, and as he would not swear to it.

Q. Was you examined before the Lords in England?

Yes.

Q. Did you mention any thing of that twenty pounds a year?

Yes, I did. I told them of it, that he had twenty pounds a year, and that I had his receipts.

Q. Did not you mention before the Lords, that

that you told something of this declaration of Neil to Mr. Talbot?

I did.

Q. And do you say so now?

I do. Mr. Talbot of Castletalbot was the man, that shewed me that certificate in my house at Bray; and I brought the book, and said, that is not Charles Kavanagh's Hand; and Mr. Talbot said, hands may differ at his time of life. I said, I don't know, but it might; but I said, I think, I know the other hand too; but I did not name, whose it was. Nor would I ever mention Cornelius Donovan, only my oath was in question.

Q. Was Mr. Talbot's shewing you that certificate, before you made the last affidavit, or not?

I cannot tell; I did not take the day of the month.

Q. Did not you say before the Lords, that he shewed that certificate, before you made the last affidavit?

I think, I said it was between the making the two affidavits. I am not positive.

Q. What was the occasion of your making an affidavit as to the character of Neil?

I cannot tell, what they asked it from me for.

Q. Was it not to support the credit of that certificate?

I do not know.

Q. What do you believe?

I cannot tell, what it was about, because I asked my brother Richard, what it was about, and what was the occasion of their wanting an affidavit of Charles Kavanagh; and he said, it did not signify at all.

Q. I asked you, as to the affidavit you made as to the character of Neil?

I don't know, what they wanted it for; nor whether they wanted it to support the character and credit of Neil, or the credit of the certificate.

Q. Did not the title of that affidavit express, that it was made on the petition of lord Valentia?

I do not know any title about it.

Q. Did you know Mrs. Dubois?

I never saw her 'till in England. I never had communication or correspondence with her; never spoke a word to her; never saw her, 'till I saw her in England.

Q. Who was it went with you to England?

One John Little, a servant of my lords, the late lord's, who was very unwelcome to

me. I did receive a letter from Mrs. Dubois, and I gave it to the Lords in England.

Q. So on that letter you went to England?

Yes, and on some order he had for me.

Q. Was it the same man, that brought the letter and summons?

Yes; Little had lived with lord Anglesey a great while ago.

Q. Did you mention to Mrs. Dubois or to any agent of her's, that you could give testimony?

No; but I told a woman in Bray of it in chat, and she took an account of it, and sent it to lady Dorothy. That was ten years ago, I think. I was called to England, to prove some words I dropped here.

Q. When was the letter and summons delivered?

It was the fifth of January twelve months, I think. I was kept four months there; was forced from my children, and came home sometime in April. I did mention a letter of Cornelius Donovan, that I forgot to bring over to England.

Q. Have you got that letter?

I have not. I did mention, that I did not bring it and the receipts over, lest I should hurt Cornelius Donovan.

Q. Have you that letter and the receipts now?

No, I have not. This Little, that was sent over, I believe, by lord Mulgrave, got a key from me, and run through my papers. I lost them and some other papers. I cannot find them; and there is a more material paper wanting than that; for there is a leaf wanting.

Q. Did Little find them?

I cannot tell.

Q. What do you believe?

I cannot say.

Q. If those had come to the hands of lord Mulgrave, would not he have produced them?

I cannot tell.

Q. Was your expression before the Lords, that you would not bring them, for fear he should be hanged?

I did; and I told that to lord Mulgrave; and he gave me his honour, that a hair of his head should not be touched.

Q. What were the contents of the letter?

It was all on account of a (v) that he wrote; and when he corresponded with me, he did not write in that way, but he wrote with a round (v).

Q. Was

Q. Was you afraid, that would hang him?
I was afraid, it would hurt him.

Q. When were those letters wrote?

I know not. It may be, they were wrote ten years before that, for what I know. I had letters enough of theirs.

Q. Have you any of them?

No, I have not one line belonging to them; for I was searching about my own affairs, not theirs, and never got a line.

Q. Did you know general Whitshed?

I did.

Q. How long since you knew him?

I do not know.

Q. Did you ever live with him?

Yes.

Q. Where?

At the Forest.

Q. When did you live?

I know not the year. Mrs. Parnel was the gentlewoman was in the house.

Q. Did you live with him in any other place?

Yes in Dawson-street, about half a year in all. I was as a housekeeper. Mrs. Parnel knows, how I lived with him, and will tell, if you have a mind to ask her. I was earning honest bread; for Mr. Donovan was a trooper, and not able to support me. I did not live with the general, but with Mrs. Parnel, who took me there.

Q. Do you know Thomas Corr an attorney?

I do not.

Q. What time did you live in Dawson street?

I cannot tell how long.

Q. Was it before lord Anglesey died, or after?

It was before he died.

Q. Do you know Joseph Bannister, or any of that name?

No, indeed, I do not know any of them. I was a very little time there, and Mrs. Parnel and three ladies more, her daughters, were there.

Q. We desire the certificate of 1741 may be produced to her. Look at the name Nixon Donovan there?

This is not the certificate at all, I saw in England.

Q. Whose hand writing is the name Nixon Donovan to that certificate?

I do not know, whose hand writing it is.

Q. Can you form a belief?

I do not know, whose hand writing it is.

Q. Do you know Mr. Dennis Byrne?

I do.

Q. Where does he live?

In Bray.

Q. Was that the certificate, Mr. Talbot shewed you?

To my knowledge it is not.

Q. What do you believe?

I cannot form a belief about it; but to my knowledge it is not.

Q. Is Dennis Byrne a man of good character?

He is a very honest man, if a poor man can be so.

Q. Had you any conversation with him as to the reason of your going to England?

I do not know but I had several times.

Q. Did you tell him, that you had any malice or resentment to lady Anglesey?

No, indeed, I never did.

Q. Did not you tell him, that the cause of your going to England was spite or malice to lady Anglesey, or any words to that import?

I declare, I never did.

Q. Did you tell him, you had a resentment to lord Valentia on account of his turning you out of Camolin-park?

I never did. All, he did to me, was in his childhood, and I forgave him. Counsellor Flood went down to Moran's, and he was in company with Byrne, and in a day after, or some such thing, Byrne came to me, when I was very ill, and said, he saw lady Anglesey. Did you? said I, Yes, said he; and said, what need you go to the parliament house to be evidence against lord Valentia. No, indeed, said I, I would go twenty miles on my foot, before I would appear against him. But if I am summoned there, I must inevitably declare the same, I did in England, being upon my oath. I did not declare any resentment at being turned out of the Park, but counsellor Flood introduced that conversation, as Byrne told me, and said, he told Mr. Flood, I was very ill used sometime before; but I said, I had forgiven it all, and had no malice or spite.

Here, what the Witness had deposed was read to her, and she was asked, if that was her Deposition, and she said, yes.

Q. As to that pocket book, what did you do with it, after you took it out of Kavanagh's pocket?

It lay in a trunk with cloaths.

Q. Was it an open trunk?

H h

No

No ; I had the care of that trunk always.

Q. How came you to take that pocket book of Kavanagh's ?

It was among every other trifle. All his effects did not amount to ten shillings. I was the only one, that took care of him. He lay thirty weeks ill on the bed : The beds were spoiling, that he lay under, and my husband said, I should get anger about the beds, and my husband wrote to lord Anglesey ; and lady Anglesey writ down word to have him put on straw ; and I said, I would not put him on straw, for that the poor man would strip and be lost on straw, and a bed would not signify much, and I would not do it : And about three days before Kavanagh died, he called to Mr. Donovan, and my husband said, he was afraid, Kavanagh was dying ; and Kavanagh desired me to give him some syrup of squills, and I said, I would. And Kavanagh said, Mr. Donovan, I am going to appear before the great tribunal, and as God is my judge, Juli Donovan, I never laid a hard word on you to my lord. Indeed, I believe, you did not, said Mr. Donovan ; for they used to say, Kavanagh would tell stories to lord Anglesey, who was very violent and terrible in his passions.

Q. Did you ever mention that before the Lords ?

I do not know, whether I did or no.

Q. But what was the reason, you took his pocket book ?

I took it with the rest of the things. My husband succeeded him, and would you have me leave it to the cow-boy ?

Q. Did you ever shew that pocket book to lord Anglesey ?

Indeed I never did.

Examined by the Committee.

Q. Where in Cork was you married to your first husband ?

In my brother Browne's house.

Q. How many years ago ?

I do not know. I believe, it was two, or three, or four years after the hard frost. I do not know the year, I was married to my first husband, I lived with him, 'till he died.

Q. How long ; how many years ?

I cannot tell.

Q. What supported Neil at that time ?

I do not know. I was asking doctor Lyons about him, and he said, we used to make up some little matter for him ; but as lord Anglesey gave him twenty pounds a year, that stopped from him.

Q. Was that a permanent grant, or not ?

I know not ; but my husband paid it in Bray, when he was wrote to.

He did not put that as a secret to me ; but he told it to me and Mr. Donovan, and nobody by.

Q. Would lord Anglesey be offended, if you had discovered that transaction to any body ?

I do not doubt, but he might.

Q. What particular reason then was there, that he should communicate that transaction to you, by which he might offend lord Anglesey ?

I cannot tell ; but he told it.

Q. Are you acquainted with the hand writing of Cornelius Donovan ?

Yes ; and I should know it, I believe, wherever I saw it. That is, the hand he wrote with ; he did not correspond with me these ten years.

Q. What made you say, that certificate was not the same, you saw in England ?

Because it was not his hand writing. I do know Laurence Neil's hand. Upon my oath, to my knowledge that certificate, which was shewn to me, is a different certificate from that, I saw in England.

Adjourned 'till to-morrow.

Di

Die Jouis 21 May, 1772.

Lord RANELAGH in the chair.

Council for the different parties called in.

Proceed for the petitioner Arthur.

5th Witness Philip Annesley.

I AM brother to the claimant Arthur; my father's name was William Annesley, he died, I think, in 1767, I am not certain; I knew his brother and his mother my grand mother; her maiden name was Susanna Sicklemore.

Q. Had you any conversation with her touching her husband's family?

I had. I asked her the name of my grand father's father? she told me William. I asked the name of his father? she told me Robert?

Q. Did you go higher, to ask who this Robert was?

I did not. I know my father's hand writing.

A paper shewn to the witness marked [H.]

I swear, that is my father's hand writing, I did see that paper before; I found it among my father's papers a few days after his death; about two days after.

The paper read as follows.

" 20th April, 1761.

" Baron Annesley of Newport Pagnel,
" and earl of Anglesey, William son of James,
" son of William, son of Robert, son of
" Sir Francis and brother to Arthur first earl
" of Anglesey."

A letter produced to the witness marked [I.]

This is my father's hand writing.

*The letter read as follows. — Directed to
the claimant Arthur, Goldsmith, dated
Gorey, 9th of February, 1757, and
signed William Annesley.*

" As to lord Anglesey's affairs I know
" very little of; he is much afflicted with
" the gout; is an exceeding good landlord.
" His son by his present lady is called
" lord Annesley, the title of the earl of An-
" glesey's eldest son, and the rest of his chil-
" dren by her are intended by his lordship,
" as I apprehend, to be deemed his legiti-
" mate issue; but whether they are so or
" not, I cannot pretend to say. They
" were publicly married a few years ago
" in this country by a clergyman of the
" church of England, who then declared
" before the company, that he had married
" 'em a good many years before at Bray,
" immediately after his first countess's death
" in England. If so, all his children since
" the marriage at Bray are, I believe, le-
" gitimate."

Council proceed for lord Valentia.

Mr. Talbot called again.

Q. Do you know Elizabeth Smalley of Elton?

I have seen her.

Q. Did you at any time shew her any certificate?

Never in my life to the best of my recol-
lection and belief.

Q. Had you any conversation with her
relative to that certificate?

Never in my life.

The certificate produced to the witness.

Q. Did you ever see that certificate be-
fore?

I have seen it before.

Q. When did you first see it?

In February 1762 I took it from lady
Anglesey, and delivered it to counsellor Do-
novan in Peter street the 13th of February,
1762.

1762. I produced a letter from him at the bar of the house of lords in England, and acknowledging the receipt of it. And another letter from him to lady Anglesey 13th of February, 1762, wherein he gives an account of his having received it, and that he delivered it Mark White. I never saw that certificate afterwards, 'till I saw it in the parliament office in London in 1770 and 1771, March was a twelve month. Mrs. Smalley was at the bar at the same time.

Q. Did she give any evidence relative to that certificate at the bar?

I heard, she did, I was not present at her examination, which was before; I do not recollect any other certificate but that of 1741, that was produced before the lords. I did not show her a certificate in her house at Bray; it was not in my power to show it to her, nor at any other place.

That part of the deposition of Elizabeth Elton, as to the conversation between her and Mr. Talbot about Kavanagh's hand writing being read, and the witness being asked, if that was true, said,

It was false. I never had any conversation with her relative to the book or certificate at all. I never saw her to my recollection 'till October 1765 at Camolin park.

Q. Do you know, whether she ever saw that certificate or not?

I can't tell, only I know, she saw it in London; she might have seen it at Mr. White's, for ought I know, but I can't say.

Q. Did she make any affidavits relative to this peerage?

I heard, she did.

Q. When was it, that the hand writing of Kavanagh to this certificate, the reality of it, was first drawn in question?

I never heard it drawn in question, 'till she appeared in England, not before the attorney general; it was always looked on as the hand writing of Kavanagh, it was looked on in Ireland, that it was really his hand, and the reason of examining to his character was to show, that he was not a man capable of writing his name to a paper for any bad purpose, tho' he was in the service of lord Anglesey.

Q. Who were the parties in that proceeding before the attorney and solicitor general in Ireland?

Mr. John Annesley of Ballyfax, I suppose, who claimed the titles of Valentia and Mount

Norris, if the present lord Valentia could not support his legitimacy.

Q. Did you ever see any affidavits, or petition, or proceedings in that cause?

I believe, I might, but cannot say with certainty.

It was admitted by the council of Mr. Annesley.

Q. Did you know Howard Kyan?

I did know him.

Q. Did he make any affidavit to be made use of before the attorney and solicitor general?

I am persuaded, he did.

Q. Did Mr. Stringer make any affidavit to be made use of before the attorney and solicitor.

I heard, he did, but did not know it personally.

Q. Is Stringer dead?

He is reputed to be dead.

Q. Was he dead before the hearing in England?

He was.

Q. Did lord Loftus make any affidavit to be made use of before the attorney or solicitor?

I heard, he did.

Q. Is he living or dead?

Dead, I believe.

Q. Did Kyan die before the hearing?

He did.

Q. Did Walter Devereux make an affidavit to be so made use of?

He did. He was dead before the hearing in England.

Q. Had Curtis Gambell made any affidavit?

He did; I heard, he was dead before the hearing in England, as I understood.

Q. Are you acquainted with the hand writing of Mr. Charles Tottenham?

I am.

Q. Have you seen him write?

I have seen him frank letters; I have received letters from him.

A letter marked [K] produced.

I believe, that is his hand writing.

The cover of the letter shewn to the witness.

I believe that to be his hand writing.

My

*The letter read. The cover directed to the
Earl of Anglesey at Camolin near Gorey.*

Dublin Nov. 26th 1759.

My lord,

"Immediately after I came to town, I
"wrote to your lordship, and informed you
"what I had done about your notes. I also
"mentioned, that I could not get any Tur-
"key rhubarb, and desired to know, whether
"you would have the Indian; but have not
"since heard from you.

"I have made the best enquiry in my
"power of doctor Andrews and others about
"getting a proper person to be tutor to lord
"Annesley, and have not been able to hear
"of one fit for your purpose, without giv-
"ing one hundred pounds or guineas yearly;
"and they will also require to be engaged for
"a certain number of years: as this demand
"is much higher, than what you mentioned;
"I shall not take any further steps without
"your directions. A petition was brought
"in yesterday to oblige colonel Loftus's
"son to waive his privilege, and a question
"being put whether it should be received,
"it was carried in the negative by one
"hundred against two.

"I am, my lord, your lordship's

"most obedient servant;

"CHARLES TOTTENHAM."

Cross examined for John Annesley.

Q. Was you examined in England on the
trial before the lords, relative to the Anglo-
sey trial?

I was.

Q. Did you contradict Mrs. Smalley in
England, in the same manner you have done
here?

I believe, I did.

Q. Were not there two affidavits by Eli-
zabeth Smalley made use of before the at-
torney and solicitor in Ireland and England
on behalf of lord Valentia, and procured by
his agents?

One was I believe, laid before the present
attorney and solicitor of Ireland on behalf of
lord Valentia; there was another, I believe,
made and laid before the attorney general of
England on behalf of the present lord Va-
lentia, I believe.

Q. Did you see some of the affidavits made
use of before the attorney general in Ire-
land?

I believe I might.

Q. Did not Anthony Ryan and James
Darcy make affidavits on behalf of lord Va-
lentia to be made use of before the at-
torney?

Ryan, I believe, did, but Darcy, I be-
lieve, never did make one.

Q. Was Ryan styled gent. or esq; in that
affidavit?

I believe he was not, because I don't
think he was intitled to it, for he was only
a common farmer in the country.

Council for lord Valentia.

Q. Was that affidavit by Ryan made in
the commencement of that proceeding, or
was there any interval of time between the
reference to the attorney general and making
the affidavit?

I think it was pretty early in the time of
the reference, but cannot be positive.

Cross examined for Richard Annesley.

Q. Do you remember, whether receipts
were produced by Hawtrey White before the
lords in England?

I believe, he did; but I did not see them.

Q. Were those receipts produced by him
laid before the attorney and solicitor general
in England or Ireland?

I believe, they were not.

Council for lord Valentia.

Call Denis Byrne.

25th witness.

I know Elizabeth Elton, formerly Smal-
ley?

Q. Had you any conversation with her
about her reason for going to England?

She told me, she went to England, since she
came back.

Q. Did she tell you whether she had any
resentment against lady Anglesey or lord Va-
lentia?

She did.

Q. What was the cause of her resentment
to lord Valentia?

I asked

I asked her that, and she told me, lord Valentia had used her ill, he threatened to turn her out of the park. I asked her, what was the reason, if lady Anglesey had dis-oblige her, she should be so ill natured to lord Valentia; she told me, that at the death of her husband Donovan lady Anglesey drove her cows from Bray to Camolin, and distressed her greatly; and that was the reason, she had spite and malice to lady Anglesey and lord Valentia.

Elizabeth Smalley's deposition yesterday of her conversation with this witness about the reason of her going to England, and about his asking her what need she go to the parliament house to be evidence against lord Valentia, and her answer thereto, was read.

I did not say the words she has sworn, nor did Mr. Flood ever desire me to say so to her.

Cross examined on the part of John Annesley.

Q. Are you not a friend to lord Valentia, do not you wish his cause well?

I do.

Q. Did not you go to Mrs. Smalley's house?

I often went there. I was her next neighbour.

Q. Had not you some conversation with her about lord Valentia?

A great deal.

Q. Had not you some conversation with her at Bray?

She does not live at Bray, she lives at the head of Bray, near the sea, near a mile. I had conversation with her as to lord Valentia's trial here.

Q. Was not that since the trial in England?

Yes. I never had any conversation with her, till she returned from England.

Q. Did not you know, she was to be examined here before the lords, at the time you had conversation with her?

No, I did not.

Q. Did not you know, she was examined in England, relative to lord Valentia's legitimacy?

I did.

Q. Did not you know, the same question was to come on here before the lords?

I did not. I did not till lately.

Q. At the time you had a conversation with her, did not you imagine, it would come before the lords here?

I did not know it till the latter end of March last. I had a conversation with her about that time about this trial here.

Q. Had not you a conversation with her as to this, since you knew, it was to come on before the lords here?

I had.

Q. Would not you be glad, she did not appear against him?

No, I had no right to be glad at all.

Q. Did she never tell you, that she would give the same evidence here as in England?

She did; and told me, she would give more.

Q. Did you ask her, whether she would or not?

No; I did not. She wanted to know, what brought me to town; I told her, I was summoned; she asked me, what I had to say; this was at her house on the quays, near Essex bridge; I told her, I could not tell her, and that I did not know, what questions would be asked me.

Q. Was not you summoned as a witness for lord Valentia?

Lord Valentia desired me to attend here, and so I did.

Q. Did not you say, you were summoned? I told her so.

Q. Did you know, she was to be a witness against lord Valentia?

Certainly I did.

Q. What business then had you to the house of a woman, that was to be a witness against lord Valentia?

I had not been a neighbour of her's till since the 25th of March last; I removed from being her neighbour to Bray.

Q. Did not you know, you was to come to this town to swear contrary to what, Mrs. Smalley swore?

No, I did not know, what I was to swear.

Q. Did not you know, when you was coming to this town, that you was to swear, that what Mrs. Smalley swore was not true?

No I did not.

Q. Did you know, what you was to be examined to, when you came to this town?

Certainly I was to tell all, I knew of the matter.

Q. What was it?

The transactions of Mrs. Smalley with John Little, who was an agent for lord Mulgrave.

Q. Did

Q. Did not you know, you was to give evidence against Mrs. Smalley.

I did not know what evidence, she was to give herself.

Q. Did not you know, you was to swear something contrary to what, she swore?

No.

Q. Did not you know, you and she were to swear differently on different sides?

No, I did not.

Q. Did not you know you was to contradict any declarations of her's?

No, I did not.

Q. Did not you know, you was to be examined something relative to Mrs. Smalley?

I apprehended, I was to be examined relative to the affair between her and Little, and the bringing her to England.

Q. Did not you know, you was to swear differently from what, she was to swear as to that?

No, I did not.

Q. Did you imagine, you was to come to confirm what, she was to say?

I did not know, what she was to swear.

Q. What brought you to the house of a woman, that was to be examined on a different side?

I never went there about any business relative to the affair at all; I went there as a neighbour.

Q. Did not you say just now, you went to see her in Dublin?

I did.

Q. Are you a neighbour of her's in Dublin?

No. I bought shoes from her husband.

Q. What brought you to her house in Dublin? did you go to buy shoes?

No; I was passing by and saw her husband, I asked for her, and he told me, she was in the parlour, and I went into the parlour.

Council for lord Valentia.

Q. What was that, that passed between John Little and you?

The question objected to, and the objection allowed.

Examined by the committee.

Q. Did Elizabeth Smalley tell you, the cause of her going to England as evidence

on the trial was resentment to lady Anglesey, or lord Valentia, or both?

Both.

Q. Did she say any thing to you of an order served on her?

She told me so, and that she could not avoid going to England.

Q. Who carried that order to her?

I cannot say. I do not know, whether she was summoned or no.

Q. Had you any conversation at all with Mr. Flood in Bray?

I had; I met him there by accident at Moran's.

Q. Was you summoned to appear here at all?

I was not.

Q. Do you believe one word, of what she said, was true?

She said; I was an honest man, and I do believe that.

26th witness, Richard Lambert.

Q. Where do you live?

I live in Rathdrum in the county of Wicklow. I was acquainted with Laurence Neil, he officiated as curate in that parish. The rev. Thomas Buckley was the rector.

Q. At what time was it, Laurence Neil officiated as curate?

In 1747 and 1748, to the best of my knowledge. I often heard him read prayers during that time; he read prayers, I thought, very well, and preached very well; I have heard him preach very often.

Q. Was you well acquainted with him during his officiating as curate there?

Very well, for he was often at my house; I was very glad of his acquaintance, and he has often dined and supped with me.

Q. Why was you very glad of his acquaintance?

Our parson was from home, and he was left in the parson's house, while he officiated, for the parson was old, and came up to Dublin, and left the care of the parish with him; and I was very glad of his acquaintance, because I thought him an agreeable, conversable, man.

Q. Was he attentive to his duty or not?

Very much so, as any man I ever knew, while he resided there.

Q. What was his character at that time?

I did not know him, before he came there, nor did I enquire after his character. I found him

him a man, that satisfied his parish, and they were all sorry, when the minister came home; and he left it, because he was a much better preacher and reader.

Q. What was his general character in the parish during the time?

No one could have a better in discharge of his duty, and in a moral life, and moral character.

Cross examination on the part of John Anglesey.

Q. Do you think any clergyman a good man, that would marry a man, who, to his knowledge had a wife then living, to another woman?

I never heard it then; I do think, he would not be a good man, if he knew it.

Q. Did not you hear, Neil had frequented Lord Anglesey's house very much?

I never did to my knowledge, for I never had the least connection with the Anglesey family; nor knew any thing of Neil, 'till he came there, nor had I any discourse with Neil relative to it.

Cross examined for the petitioner Richard.

Q. How long did Neil officiate as curate there?

I cannot say how long, but I knew him in 1747 or 1748; I can't say, how long he staid there?

Q. Within the time you knew him, how long was he resident there?

The whole time I knew him, I believe, it was the best part of a year; I am not particular, nor can I be, for I took no notice of it, nor ever thought, I should be called on. I knew the rector Thomas Buckley very well.

Q. Had he frequently before been absent from his parish?

He had sometimes; he was old and infirm, and I knew him to be a very worthy, good, man, and would be very careful in any choice, he would make of a curate, for I knew him to refuse some, he had not a good character of.

Q. Was Neil employed as curate during any other time of his absence?

I do not think, I saw him there but only during that time.

Q. Was he any thing then but as an occasional curate for that one time?

I cannot say, whether he was licensed or not; I believe, he was not, or else he would have continued longer.

Q. What age was Neil at this time?

I can only judge from appearance; he appeared to me above fifty; he had a brother had a parish under the see of Dublin about twenty miles from me.

Q. From what country did he come to that cure?

I cannot tell.

Q. To what country did he go afterwards?

To Dublin, I heard. I never saw him afterwards or before; I can only speak of him, while he resided at Rathdrum.

27th Witness, John King.

Q. Where do you live?

I live in the county of Wicklow at Bally-naclash in the parish of Rathdrum.

Q. Did you know Laurence Neil a clergyman?

Very well; I was perfectly well acquainted with him in 1748. What time he came, I am not positive, nor how long he staid; but I am positive in 1748.

Q. How came you to be acquainted with him?

When he came to be curate of the parish, that was the occasion. Mr. Buckley was our minister, and he lodged and dined in the house with him; and I constantly almost every sabbath day that I went to church, which was pretty constant, dined at Mr. Buckley's house; and that was the way, I came acquainted with him.

Q. How did he behave during the time?

No man could behave better. I was frequently present, when he officiated, and no man could preach or read prayers better in my opinion.

Q. Was he attentive to his duty?

He was constantly, while he was in the parish, 'till he became incapable by the gout.

Q. Did you hear any thing to the prejudice of his character?

After a time he had been in the parish, I did hear, that he had married a couple. I never heard so much of it as from himself. I asked him the question, and he said, he was charged with such a thing, but he was innocent.

Q. As to his general character when curate there, was it good or bad?

Very good, to the liking of the whole parish, who were very sorry, when he left it.

Cross

Cross-examination on the part of the petitioner John.

Q. Did you ever hear of Neil's officiating at any other place?

Yes, at St. Luke's in Dublin. I think, that he was curate there.

Q. Did you ever hear, he had a disagreement with his parishioners, at St. Luke's or with the clergyman?

I never did hear, he had any.

Q. Did you ever hear, how he came to be removed from that parish?

Yes, I heard, it was on the complaint made of him, the marrying the couple I spoke of before. He denied to me positively, that he had married that couple.

Q. Was the charge against him, that he had married them without a licence or publishing the bands?

Yes, I believe, it was. I heard, that was the complaint against him.

Q. Did you believe him, when he denied it?

I did, because he gave such an account of it, that he was wronged, I did not believe, a gentleman would say a thing so positively, if it was not truth.

Q. Did he say, he would not do such a thing as that?

I do not know, that I asked him the question, or that he said that.

Q. Was not he very attentive to his duty, as a clergyman?

Very attentive while in our parish; no man could be more so.

Q. Do you believe, he would knowingly do a thing, contrary to the rules of the church and duty as a clergyman?

I do not know his thoughts; but I have that opinion of him, that he would not do it.

Q. Do you not believe, that marrying a couple clandestinely is contrary to the duties of the church?

I believe, it might be; I do not know the canon law.

Q. Then, do you believe, Neil was capable of such an act?

I had that opinion of him, that I did believe, he would not do any thing to the contrary.

Cross examined for the petitioner Richard.

I dined constantly with Mr. Buckley, during the time Neil officiated. Mr. Buckley was in the house all the time, that Neil was curate there; for Buckley was a very antient gentleman, and lived in his own house.

Examined for Lord Valentia.

Q. Was Buckley at home, the whole time Neil was curate?

He might be a week away, I can't say, but I believe, he was the whole time, for he was infirm.

Q. Did Buckley attend the duties even himself?

He very often preached, and Neil read prayers.

28th Witness. Daniel Mills.

Q. Was you acquainted with Lawrence Neil?

I was, about 1747 or 1748, at Rathdrum in the county of Wicklow. He was curate at that time: the parishioners liked him very well; he did his duty as curate very well. He was curate there, I believe, about twelve months. I heard him read prayers and preach: He read and preached very well, and was very well liked in the parish. His character in the parish during the time was very good.

Council for Lord Valentia.

We desire to prove, that Mr. Neil was educated in Trinity College, Dublin; entered in 1713, took his bachelor's degree in 1717, and afterwards master of arts; but we cannot produce the College books, as a board will not be held 'till to-morrow, unless it is admitted.

Council for the petitioners admit the facts.

Council for Lord Valentia.

I mentioned the evidence of Ann Rooks the natural daughter of lord Anglesey. She is not yet arrived, and probably cannot now; though lord Valentia has taken all the steps for it. The express sent is not come back; but by a letter received she is ready enough to come, but she is married, and her husband will not part with her.

We close the evidence here for lord Valentia.

Council for the petitioner John Annesly.

We do not intend to produce any witness, but desire to produce an exemplified decree of the court of chancery carrying into

K k

execution

execution articles. There was a contest between lord Anglesey and Charles Annesley; and in 1737 articles were entered into, whereby two thirds of the estate were limited to lord Anglesey for life, remainder to his first and every other son in tail male, remainder to Charles for life, and to his first and every other son in tail male, and to the right heirs of lord Anglesey: the other third was settled on Charles for life, with like remainders, remainder to lord Anglesey for life, with like remainders, and to the right heirs of Charles. And there was a power given to lord Anglesey to settle 2000l. a year jointure on any wife, and very considerable portions for younger children; and power to make leases, but no power of charging any debts. The use, we make of it, is this; if lord Valentia be the legitimate son of lord Anglesey, he took this estate under the limitations in that settlement as tenant in tail free from all incumbrances, except for a wife and younger children. Wills have been laid before the Committee, by which lord Anglesey must have considered him as illegitimate; for he has given away estates, and given powers, he had no right to do: and from his levying fines, and suffering recoveries, it is conclusive evidence from the acts of lord Anglesey himself, that he must

have considered lord Valentia as an illegitimate son.

Council for lord Valentia.

We shall not object to the reading the decree. Charles Annesley was a purchaser for valuable consideration, and obtained a decree; but the children of lord Anglesey under this settlement were meer volunteers, and no court would have carried this into execution in favour of them, tho' they would for Charles. Besides, lord Anglesey had new acquisitions, which were no part of the lands in the articles of 1737.

Council for the petitioner John.

That would be a good answer, if it was ever doubted, whether voluntary articles, supposing they were so, would not take place of a will.

We close our evidence here,

Council for the petitioner Richard.

And we have closed our evidence.

Adjourned 'till to-morrow.

Die Veneris, 22 May, 1772.

Lord RANELAGH in the chair.

Council called in.

Council for the petitioner Arthur.

We also have closed our evidence, as we find, that Bartholomew Thomas, the other

witness summoned, cannot prove any thing material.

Adjourned 'till to-morrow.

Die

Die Sabbati 23 May, 1772.

Lord RANELAGH in the chair.

Council for the different parties called in.

Mr. THOMAS KELLY for the Petitioner JOHN ANNESLEY of Ballyfax;

My Lords,

THE first question for your consideration is, whether the petitioner Mr. John Annesley be intitled to the honours of viscount Valentia and baron Mount Norris; in case your lordships shall be of opinion, that the late earl of Anglesey died without issue male lawfully begotten; the counsel for the sitting lord offered to admit that consequence; but in cases of this kind the admission of the contending parties is not sufficient; it should not however be expected from your petitioner to give particular positive evidence of the deaths of the several children of Francis the first lord Valentia, that being now impossible, as many of them have died without issue much more than a century since. It might have been a misfortune to the petitioner, that no correct books of heraldry are kept in this kingdom (nor were there, I believe, formerly in England) so that no account can be given of this family from such books. It might have been also a misfortune to him, that all the deeds and papers of his family are in the hands of his adversary lord Valentia, if notwithstanding all these disadvantages a clear title had not been made out for him.

He has produced an ancient lady above eighty years old, Mrs. Charity Blake, the great grand daughter of Francis the first lord Valentia; and she has told your lordships, that her grandfather John was the third son of Francis, that Arthur was the eldest son, and that both she and the present petitioner are descended from John the third son, and has deduced the pedigree down to the petitioner, so that there is no doubt, that the petitioner is descended from that Francis. She has positively sworn, that she has been acquainted with the noble family (with which she was

closely connected) from her infancy, and that it was the universally received opinion of the family (which is the best evidence in such cases) that the petitioner's uncle, Mr. Francis Annesley of Ballyfax, who died without issue, was the next in succession to those honours, in case the late earl died without issue male lawfully begotten.

The witnesses on the other side confirm her testimony; lady Anglesey confirms it by swearing, that Mr. Annesley of Ballyfax, the uncle of the petitioner, was the person to succeed to those honours, if the earl had no issue male. She said indeed, that he was very remotely related to lord Anglesey, and Mr. Annesley's good conduct in life shews, that the kindred was very remote; Mr. Talbot informs you of lord Anglesey's declarations upon his receipt of a letter in 1750 from your petitioner's father, and thereby further proves, that if lord Anglesey had not a lawful son, Mr. Annesley was the person to succeed to those honours. Mr. Kavanagh confirms this, and Mr. Richard Annesley, son of lord Glerawly; swears, that it was so considered in the family since the death of lord Anglesey.

The contest for those honours has long subsisted, and has been the subject of the inquiry of the lords of Great Britain, and of the greatest notoriety, and yet no other person has appeared to claim them except the present claimants, so that it may be fairly inferred, that no person can have any well founded claim thereto but my client, unless the Dutch petitioner, Arthur, should be intitled to a preference, and, I believe, he will not be much disappointed, and that his ambition will be as fully gratified, as he expected, by having been a candidate for those honours at the bar of this house: But tho' he has not been able to do himself any service, he

he has produced three witnesses, who clearly proved, that Mr. Annesley of Ballyfax was the heir male of that family, unless Arthur's ancestors were the elder branch, which clearly appears not to have been the case.

The next question for your lordship's consideration is, whether the last earl of Anglesey left any legitimate issue male or not. There are two persons, who claim to be his legitimate sons; and as I must acknowledge, that the claim of *one* is less objectionable than that of the *other* (*tho' both are highly improbable*) I will begin with that, which is the *least improbable*, and that is the claim of Richard, and if I can shew this ill founded, there will be very little difficulty in shewing, that the claim of the noble sitting lord (*so much more improbable*) can have no foundation in truth.

Two witnesses indeed swear positively to the marriage of lord Anglesey to Ann Salkeld; but it is found by experience (*and a lamentable truth it is*) that in cases of very small consequence, infinitely less interesting than the present, there is no great difficulty to find two witnesses, who swear falsely. No person will say, that the two witnesses, who bore testimony to this marriage, have better characters, than the two grave elders had, who swore as *positively* to the guilt of the *innocent* Susanna; yet the upright judge acquitted her (if I remember right) founding himself on a contradiction in their evidence touching the place where the crime was alleged to have been committed.

Ann Buntin the aunt of Richard says, she was married to the celebrated Stephen Hay, who was in fact a *notorious gamester* in London, whose greatest honour was to have been a *cadet in the French service*; and yet she says, that he introduced lord Anglesey into the family of her father, a London broker, and that lord Anglesey, then in possession of his great estate and *all his honours* *think upon him*, proposed to marry that brokers daughter, and, (would you believe it?) was refused; she says indeed, her father's word would go for 30,000l. (as she expressed it) and in that she agrees exactly with Mrs. Knight, who makes use of the very same words. Is it credible, that such a man would refuse an English earl in possession of a great estate. It cannot be believed; she says further, that lord Anglesey met her in the park (*a very likely place for a man of gallantry to search for a handsome girl*) she tells your lordships, that he married her in May, for it was ne-

cessary to swear to a marriage in May, because if she was not married before August, the child would have come too soon for her honour, and deprived his mother of that *improbable claim to superior virtue*, which the fair Juliana by her story boldly disclaims.

Mrs. Buntin's evidence goes to a marriage in August only; she tells you indeed, that she heard from lord Anglesey, that there was a *private marriage* in May, but of such marriage there is no proof except *his* declarations, and those are sworn to merely to wipe off the imputation of Miss Salkeld's pregnancy at the time of the supposed marriage in the month of August, then she proceeds, and tells your lordships, that in August company was invited, and amongst the rest a Mrs. Knight, who kept a house for lodgers; by whom was she invited? by Mr. and Mrs. Hay; to go where? to lord Anglesey's house, the house of a nobleman whom she never saw, and where she had never been before; she tells your lordships, that a conversation arose, in which lord Anglesey expressed his joy at his wife's pregnancy. But her testimony is *too ridiculous* to dwell upon! Mrs. Knight gives nearly the same account; she has told your lordships, that she spent the evening with the countess of Anglesey; that the marriage was a sudden matter, arising merely from the conversation between Stephen Hay and lord Anglesey; that a prayer book was instantly called for, and (*what was more wonderful*) *was immediately found in the earl's house*; that a parson was there (*tho' no motive is assigned for his presence*) major Carrington, who, I suppose, was a French major, happened to be there also; and she tells you, what I all along expected, that *there is no person now alive, who was present at the marriage*, tho' it was in 1742, except the aunt and her friend Mrs. Knight: Mrs. Knight says, she never after went to lord Anglesey's; and why? because he was apt to curse and swear. Strange, that a woman, who kept a house for *Irish lodgers*, should be so much alarmed at an oath.

They all swear, that young Richard was called lord Altham; which is not the title of the eldest son (that being lord Annesley) and that the doctors prescribed for him also by that name, tho' doctors never mention the patient's name in their prescriptions, and hardly ever write any thing therein intelligible to any but the faculty, as the phrase is. The sponsors for the heir of these titles and

and great estates, were major Carrington, Mrs. Buntin, and captain Green; it was not prudent to name other sponsors, because by such nomination the fact might be disproved. Richard founds his claim upon evidence of a *public marriage*, of which lord Anglesey made no *secret*; on evidence that his mother was called lady Anglesey, and he himself lord Altham; and yet the counsel for the sitting lord will say, that he was afraid to own the marriage with his mother, and that his circumstances made it necessary to keep it secret; so different are the means, which artifice and imposture make use of to arrive at the *same ends*! Both stories are so inconsistent, and so contradictory to the course of human affairs, that neither is credible. This lady died in 1749 of a consumption (as the witness calls her disorder) caused by her hearing of the earl's marriage with Mrs. Simpson; but you are told, that three of the daughters of Mrs. Simpson were sent by lord Anglesey to the care of this lady, and lived in her house; A child got *before marriage* is often brought into the house, but it is hardly to be imagined, that a lady, who was dying of a consumption, would have a child of that marriage, which was the cause of her disorder, brought into her house: The true cause of her disorder was the anger of her father, who would not see her, who (if you believe the story) never could forgive a daughter, whose only crime was, that she had married an *earl of Great Britain*, tho' very few years reconciled him to a daughter, who married *Stephen Hay*; Mrs. Hay has told your lordships, that her motive for enquiring so closely for this young man was, that a *pretty estate* descended from her mother, and that this boy was intitled to a share of it; to one third; if you believe her, she is most uncommonly disinterested, for very rare in these days is that *virtuous disinterestedness*, which will look out for a person, who is intitled to take away the third part of an estate; she proceeds and tells you, my lords, that Richard, tho' his mother was in England, was put into the house of major Carrington; that lord Anglesey came over in the year 1743, and carried away the coach and six horses and all his servants, and got an *one horse chaise* for lady Anglesey, (a carriage very suitable to the situation she was really in) she kept a *foundling hospital* for him; for all his *natural children* were lodged with her in a little country house.

It will hardly be credited by your lordships, that any *modern lady of quality*, especially one raised from a low degree to that high rank, would submit to such treatment; she was the most condescending and the most indifferent, that ever existed, if the witness is to be believed; for after the earl went over to England, she never made any enquiry about him. If she were his lawful wife, would she not have taken her son as the only comfort, she could resort to, and enjoy the company of her only child the heir of such great honours and fortune? yet there is no evidence of her enquiring about him, after he was removed to major Carrington's; it is said by Mrs. Buntin, that for seven years she was called countess of Anglesey; that she went to Yorkshire in that character; is there no witness to prove, that she was called so there? Could she be so unnatural as to let her child, and a child of so great expectations, go away in a hackney coach or stage with a maid servant only; *women generally part with illegitimate children in that way*. She never enquired for him 'till three years after; she never once went to see lord Anglesey, tho' he went over to the trial of the rebel lords, when every British peer was summoned; for Mr. Kavanagh informed your lordships, that he lodged with lord Anglesey the whole time, and that no such woman as a countess of Anglesey came to see him.

Lord Anglesey never gave her a shilling, except a small supply, for a short time that she acted as *mistress of his foundling hospital*, she never followed him or sued him for alimony, or maintenance, tho' the wrongs and indignities which she suffered, tho' her necessities, would have induced her thereto, had she any claim to either; but this extraordinary wife, *made a wife in as extraordinary a manner*, never, it seems, enquired for either husband or child.

A nurse was also examined, who told some truth, yet coupled it with so many falsehoods, that she is not to be credited; there is no doubt, that she nursed the child, and that Richard and the present sitting lord are sons (*but natural sons*) of lord Anglesey. This woman has gone a little further, and says, she was sent for in five weeks, (the former nurse being discharged on account of a sore breast) and that the lady was *perfectly well*, and yet lord Anglesey himself goes up to the nursery and presents the child to this nurse; introduces him to her as his son and

heir, and as lord Altham, and agrees with her for the wages too; I believe, lady Anglesey was ashamed to own him for her child, the *mother* usually is the person, who agrees for the nurses wages, where the *mother* is married, but the father (as the *mother* may not be credited) generally agrees for the nursing of *such* children as Richard.

Mrs. Knight, when asked whether the marriage in August was a jocular marriage, answered, that she did not know but it was. Better evidence will be required to establish such a story than that of these two women. Mrs. Buntin was married very young, and her morals could not be much improved by her alliance to *Mr. Stephen Hay*; but from her own mouth will I judge her; she says, that her father got her arrested to know, whether she was married to Stephen Hay or not, tho' she cohabited with him several months before to his knowledge; this shews, her father had a bad opinion of her, for he supposed, she would cohabit with Hay tho' not married to him; and she in return had a bad opinion of him, for she says, he would not give any of his children any thing in his life time.

The influence of the present lady Anglesey in Ireland, and her motives to destroy the claim of a man *so much less improbable* than that of *her son*, were so great, that I lay no stress on the acts done in Ireland to prove the bastardy of Richard; but when he was in England, he must have seen his mother's relations; he was present at the hearing before the house of lords in Great Britain, yet he acquiesced all along, 'till he conceived some resentment against the sitting lord; prompted by resentment he institutes this claim, which, tho' it can never *end in victory*, will yet be *revenge*, as he has made out so much a better case than the sitting lord, that the sitting lord can never succeed.

One would imagine, that there never was a story of a marriage so ridiculous and incredible as the one I have mentioned, if I had not a *more ridiculous* to relate; and of all the chimerical claims of marriage that ever came before any judicature, that, whereon the sitting lord founds his pretensions, is the most incredible. There is not perhaps a single instance to be found in the annals of time, in all the transactions of mankind, in the experience of individuals, or even in the fiction of novelists, of such a marriage as the present. Many dissolute men have married women to get possession of their persons, many virtuous men have in the hour of frailty,

or tempted by opportunity, deprived a girl of her chastity, and soon after, urged by generous and honourable motives, made her the only amends in their power by marriage. Many men also have after a long cohabitation, and when a mistress by a thousand endearments, and a compliance with all their humours, or perhaps to rescue children already born from a disgraceful situation, married women, whom they have dishonoured. But that a *dissolute man*, who had gained possession of lady Anglesey, should without any *preceding contract* (for none such is pretended, or *any subsequent inducement*) in a few months after she voluntarily became *his mistress*, that he should make her his *wife*, appears altogether incredible. It is not to be believed, that he did it as an act of reparation; the whole tenour of his life and character excludes such an idea, and on the other hand fortifies the supposition of his having fabricated an instrument at a distant period in order to legitimate his children. I acquit the sitting lord of having any hand in the *plot*. It was contrived, when he was an infant; the contriver still lives and carries it on; it was natural for him to believe *his mother's tale* and to adopt *her schemes*, tho' he might see with half an eye, that *his interest* was but a secondary motive, and that her conduct and wishes to make *her own* honours and fortune secure have rendered his claim insupportable. His conduct during the course of this interesting trial would prepossess one much in his favour, and make one lament, that he had not a case, in which it was possible for him to succeed.

The next question for your lordships consideration is, whether the father and mother of the sitting lord were married on the 15th of September 1741; and your lordships opinion of that fact must depend upon the evidence of lady Anglesey, the *only person living*, who was present at the marriage (if any such was ever had) and the authenticity and credit to be given to the certificate of Laurence Neil.

It is the misfortune of council, that there are some cases, where they cannot gratify themselves by forbearing to mention harsh truths, without betraying their client, and the duty they owe him; and that is at present my disagreeable situation: I shall be under the necessity of mentioning some unpleasant circumstances, which I could wish to omit; but I cannot do that consistently with my duty, which forbids me to omit any just observations

servations in deference to compliment any person whatsoever. I will, however, leave much to the imagination of your lordships, and only exhibit a few striking features of this monstrous design.

It appears, that this lady was the daughter of a woman distressed in circumstances, who lived on lord Anglesey's estate, and sold ale. She was then seventeen years of age, and a beautiful young woman, and could not fail to attract the attention of lord Anglesey, who had lately before on suspicion of infidelity parted with Mrs. Simpson, a lady that for seventeen years had been considered as his wife, and introduced at the Castle as such. Miss Donovan did not scruple to go to live with lord Anglesey, whose wife Ann Prust was then alive; with a man not of the *chastest morals*: Yet was she on the *first invitation* prevailed upon to go to his house, where she remained during the lives of Ann Prust and Ann Simpson. She alleges, he married her in the month of September in the year 1741; her eldest daughter (*and she did not come before her time*) was born in February following, five months after the alleged marriage: Lord Anglesey therefore was not reduced to the disagreeable necessity, which other men experience, either to *desert* the pursuit of a handsome woman, or *marry* her. But she would have your lordships believe, that lord Anglesey married her *after the full enjoyment of all those beauties, which are to most men the strongest temptations to marry*. But it is said, my lords, that lord Anglesey might have married her, as he wished for an heir to his honours: He was but 47 years old at that time, and a man of *that age* need not despair of an heir by a *proper wife*. Lord Anglesey could not be so short-sighted as not to have foreseen, that so unequal a marriage as that of an *earl* to the *daughter of a poor ale-seller* on his estate, who was then his kept mistress, would be futuramente questioned, and require the most credible witnesses to establish it. I believe, and it is sworn, that this lady is related to the family of a very respectable gentleman in that country, (but high blood is, I fear, now no proof of chastity) who would have rejoiced, if lord Anglesey had communicated to them his intention of marrying her, and would not think the addition of a countess a disgrace to their family. This family lived within three miles of lord Anglesey, and no doubt would have been highly pleased with an invitation to be present at the marriage; but no wit-

ness is sent for to witness this important transaction. Who then were the witnesses? a young trooper of seventeen years of age, who happened to come a few days before on a furlow. Lord Anglesey, whose *happiness, whose peace, whose security*, your lordships are told, depended on the *concealment of this marriage*, could not have any knowledge of his discretion; he was not of years of discretion; nor could it be expected, that a trooper could conceal his pride in being the brother of a countess, when by proclaiming her marriage he was freed from the shame and disgrace, he suffered, by being the brother of a kept mistress: He was the most unfit, and therefore the most unlikely, to be called in to be a witness of so great an event.

The other witness was Charles Kavanagh a steward. Was ever a marriage of any person of high condition celebrated in the presence of two such persons, or by such a man as Laurence Neil? The strongest proof alone can give credit to such a story; and yet the witnesses to prove this are witnesses liable to every objection.

If the misfortunes and distresses of her family had not reduced lady Anglesey to indigence, she might have been an ornament to her sex; but the morals of the best woman might be corrupted by such an education, as she got, and by the scenes in which she must have been engaged. She was in her early days bred up in an alehouse, under the care of a mother who appears in a bad light; and your lordships know the consequence of her *removal* to lord Anglesey and his profligate associates. She attests a *fact*, which no person *alive* can contradict, so that she swears under such circumstances, that she can incur no *temporal danger* from perjury.

Here then, my lords, you have a woman establishing her own jointure (which, if Richard succeeds, is *disputable* at least;) a mother swearing her son into titles of honour and great estates, and her daughters into rank and fortunes to repair the disgrace she had brought upon them by the *ignominy* of their birth. The evidence of such a woman must be received with the greatest caution; for parental fondness may reconcile to itself a deviation from truth, and gild it with the name of a *pious fraud*. The civil law does not allow a parent to be a witness for a child; the objection goes to the competency of the parent; so a witness interested to the value of five shillings is incompetent. This lady comes to give testimony under all the prejudices

dices that can actuate the human mind ; but what is her testimony ? She tells your lordships, that lord Anglesey several times before the marriage had proposed marriage to her ; it must be from thence inferred, that she several times refused to marry him, else such frequent proposals and solicitations were unnecessary ; and it is (I believe) the first instance, that a woman in her circumstances required *much courtship*. The usual order of things is here reversed : Women in her situation frequently solicit men, but in this case *the man* is the person, who solicits the lady to marry him, and is *frequently* refused ; but she condescended at length, and tells your lordships, that he married her in the presence of the two witnesses, I have mentioned. She says, this was to be kept the most profound secret, for lord Anglesey was then in such great distress, that he could not communicate it to any person. *It was a new mode to relieve himself from distress to marry a young lady, who never had any fortune, and whom he deprived of her honour.* But why was it to be kept a secret ? The contrivers of this scheme judged from lord Anglesey's past conduct, that any story of his delicacy to offend his relations (the usual cause for secrecy) in such cases would not be credited ; they therefore have tortured their imaginations to find out another cause ; and that is, that he was afraid, that Mr Charles Annesley would know it. The assignment of this cause alone without any other circumstance or evidence proves the falshood of the whole ; for lord Anglesey and Charles Annesley came to an agreement in the year 1737. What fear could lord Anglesey have entertained from Charles Annesley's knowledge of his marriage ? as he and Charles Annesley had before settled their disputes. There was a final settlement then entered into, which Charles Annesley did not desire to break thro', for on the contrary he filed a bill for a specifick execution of it.

Lord Anglesey was but forty seven years of age ; Charles Annesley had no child, tho' long married : Then why should *he* be offended ? He had before got a decree and a sequestration against lord Anglesey's estate ; so that there was no rigour, no severities, that he did not make use of against lord Anglesey, though he considered him as unmarried : What benefit then had lord Anglesey from this secrecy ? None ; for the persecution did not cease in consequence of the secrecy. If lord Anglesey was then mar-

ried, nature and resentment would have prompted him to *publish*, and to declare that he did it in resentment : But Charles Annesley died in the year 1747 ; then all lord Anglesey's fears from that quarter were removed ; and yet *though pining for an opportunity* (as is sworn) to divulge it, it is still as profound a secret as ever, as though it had never been ; but for that they would account by the appearance of James Landy : *The return of a comet was thought necessary to account for a conduct so extraordinary* : But why should James Landy be the cause of keeping this a secret ? What had this marriage to do with the pretensions of James Landy, who claimed as the legitimate son of lord Altham ? so that lord Anglesey must have lost the titles and estate, whether he was married or not, if Landy succeeded. And it cannot be supposed, that Mr. Francis Annesley, a most respectable gentleman, who was the next in succession to some of the honours, in case of the death of the earl without issue male, would support Landy's claim, to remove himself much farther from those honours. Why therefore should lord Anglesey after the year 1747 conceal a transaction so important to his family ? at a time when he had a number of beautiful children in the house, and that the influence of lady Anglesey began to commence ? yet lord Anglesey did not disclose that important secret in 1747. *The reason is plain* : The reason assigned for keeping it a secret is trifling in comparison of the great important motive to publish it. Supposing his fears of Charles Annesley *real*, yet upon his death lord Anglesey (if married) would have embraced the first opportunity of rescuing his lady and children from the apparent consequences of a marriage kept already too long a secret : But what is still more surprising, lady Anglesey says, this was concealed by her 'till the marriage in 1752 ; that she did not reveal it even to her mother. If that be true, *let female secrecy be no longer questioned* ; for *here is a second wonder, another woman keeps a secret*. Is it to be credited, that a lady of such high spirit, as she appeared to your lordships to have, would for eleven years, conscious of her right to better treatment, suffer the indignities, to which kept mistresses are exposed ? Will your lordships believe, that she could for so many years stifle two of the strongest passions in the female breast, pride and revenge ? The pride of declaring herself an English countess,

countess, and thereby conferring undisputed titles of honour and fortune upon her children; and the gratification of revenging on her own sex the numberless mortifications which she had endured from them: Your lordships cannot believe it. She says, that her mother lived with her in lord Anglesey's house, yet that she never told her, that she was married, but hinted it to her (as she expressed it.) She must have had a *light opinion of her mother's virtue*, not to be more explicit with her as to the terms upon which she lived with lord Anglesey; and her mother must have *deserved* such an opinion, when she was contented with a *bare hint*. If her mother was not fully satisfied of the marriage, she must have been a bad woman to have lived with her daughter, and be spectatress of her crimes. If she considered her daughter married, is it credible, my lords, that she, the mother of a countess, would in the year 1745 marry the poor blacksmith of lord Anglesey, who lived on his demesne and near his house, and that they should be permitted to live in their natural obscurity within the view of a noble earl and his lady, who were disgraced by such an alliance; and yet neither the lord or lady shewed the least resentment to either of them, or raised their father-in-law to any higher station, but suffered him still to continue a poor labouring blacksmith in the same place. It is therefore evident, that in 1745 the nearest neighbours, or the tradesmen of the family, had not the least suspicion, that lord Anglesey was married to her; else the blacksmith of the family would never have presumed to address the mother of a countess. But it seems, lady Anglesey was (if the evidence is to be believed) the *only* person, who kept this secret; for Mr. Masterfon, who was produced as a witness by the sitting lord, says, that in the year 1749 the earl of Anglesey in the presence of two other gentlemen told him at Camolin-park, that he was married to her, and that without injoining secrecy: That lord Anglesey often in company called her lady Anglesey; and that in the same year a chambermaid came in, and wanting something, the earl desired her to call to lady Anglesey for it. If it was a secret before, would not that maid joyfully have told it to her mistress? to her fellow-servants? and would not the world have heard of it?

Miss Batt says, that in June 1752 they appeared publicly at Ross, and that she was there treated by every body, and by lord An-

glesey himself, as lady Anglesey: All the neighbours it seems, (except people of fashion) visited her as such; and that four months before *she* assumed that character, or disclosed her right to it to any body. Mr. Tottenham gave somewhat a different account from Miss Batt; why then did they not marry in June, when she avowed herself lady Anglesey? for it was sworn, that a soap-boiler's wife (that being the first time she was a countess) came to the town, and went to visit her; yet she herself keeps the secret inviolably 'till the marriage in 1752: Is that probable? Both stories cannot be believed; and the rule is, Where there is contradictory evidence on the same side not to believe either part of that evidence. The plot now begins to thicken, and we are come to the marriage of 1752; and if you consider the account given of it, it will appear as ridiculous a farce, as ever was acted.

A noble lord invites company to dine, but none of distinction, tho' several persons of fashion lived near, particularly Mrs. Donovan, who was a relation of this lady. This second marriage has been very elegantly called a recognition of the former marriage. I never before heard of a man marrying a woman to recognize a former marriage to her after the birth of children; it was never done to legitimate the children born before. It happens generally and luckily too for the publick, that *weak people only* are wicked enough to form such schemes; and however cunning they may be, or think themselves, yet they rarely impose upon the sagacious publick.

But to proceed to the evidence; your lordships are told, that Neil happened to be there, and that lord Anglesey without apprizing him of his intentions calls on him suddenly to marry them over again: It was schemed, that all the world should be imposed upon. Mr. Masterfon tells you, indeed, that it was a *preconcerted plan*, and that Neil was to *assume* the appearance of surprise, and the lady, who knew very well, the certificate would be called for, had it above stairs ready ripped from the robings of her gown, and went for it. It was handed about to the company, and Neil officiously declares, that it was all his hand writing and the hand writing of the witnesses. Where was the occasion of such declarations? In their fears only, which suggested the necessity of them. If the contriver of this farce had any solid judgment, he would not hope

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to impose on the meanest capacity, and would be ashamed to own it. This conduct is *demonstration strong*, that lord Anglesey, and the lady, and the parson, were conscious, that there was no marriage in the year 1741. It has been sworn, that lord Anglesey consulted council upon this mode of proceeding, but I am sure, no council gave him so very ridiculous advice. But what did his own council Mr. Fitzgerald advise him to do? to institute a suit to establish the marriage of 1741: But the obstacles to that mode were insuperable; Neil was alive, and though he would give a certificate, he would not be hardy enough to swear, he married them in the year 1741; and no court of justice in this kingdom would have believed him, if he had. A suit had been before instituted, and was then depending in the consistorial court, by Mrs. Simpson to establish her marriage, in which any council would have advised Mrs. Donovan to intervene, if she could prove the marriage of the year 1741. This shews, there was no marriage till 1752; which was had for two purposes, in which this lady seems to have considered *her own interest only*. If her only object was to establish the marriage of 1741, there is no man alive, who would not have advised her against the *ridiculous* marriage in 1752. But her true object was to be a countess, and she would not rest her title to that honour upon the pretended marriage of the year 1741, when she could make it *sure* by a marriage in 1752. She sacrificed to *her own views and interest* a better case for her children, than they can now make; for the marriage of the year 1741 is (if possible) made *more incredible* by that in the year 1752. Another motive was the enjoyment of a jointure, which the earl had a power of charging for a wife, and which the marriage in 1752 only could entitle her to enjoy.

I admit the severity of calling upon persons, who have been lulled into security by *general uncontroverted reputation*, to prove their marriage or legitimacy after a length of time and the deaths of all their witnesses; but in this case no such severity can be complained of. The general voice called upon these parties to clear up this transaction, not after the deaths of their witnesses, but in the *life* of Neil; not after they had been lulled into security by the opinion and acknowledgment of mankind; but at a time when it was generally reported, and universally believed, that they were never married: Their own

conduct shews, they thought it was necessary; the attempt shews, it was impossible.

A lucky event has happened in the course of this trial, brought about by the hand of chance; which often detects impositions: I mean the parchment incautiously produced by the sitting lord, importing a will intended to have been executed by lord Anglesey in the year 1752, when the influence of lady Anglesey, tho' not at its height, had become very powerful: She employed Mr. Butler a gentleman of exceeding good character (but who was not lord Anglesey's attorney, Mr. Mark White being then his attorney in all his other business). This will was drawn by counsellor Fitzgerald from instructions taken from the mouth of lord Anglesey himself at Camolin. The draft of the will, drawn by Mr. Fitzgerald in Dublin, was sent down for lord Anglesey's approbation, before it was ingrossed. His lordship returned it after carefully reading and approving of it, with directions to ingross it. This shews, that it was one of the best considered wills, that could be, and that every word inserted in it had the repeated approbation of lord Anglesey himself. Let me remind your lordships of this will: One of the first bequests in it is to John Ians, who lived many years in the house with lord Anglesey, and who of all his dissolute companions had the greatest influence upon him, and the greatest share of his confidence. I own, that a legacy of 100*l.* only is given to him, but it is mentioned in this will to be given in addition to an annuity of 100*l.* for life, secured to him by deed; by this then Ians, a witness to the certificate of 1752, the friend, confidant, and intimate acquaintance of lord Anglesey was to be rewarded for playing his part in the marriage of 1752. By this a legacy of 500*l.* is bequeathed to the daughter of Ians: This 500*l.* is equal to the sum, lord Anglesey gave his daughter by miss Glover in the same will; but the subsequent part of the will shews, it is impossible, that any man, who considered himself as married to the lady at *that time*, could have intended to execute such a will: He bequeaths a thousand pounds a year to her, and calls her indeed by the title of lady Anglesey, but he takes care to call her *Juliana Donovan countess of Anglesey*, well knowing that nobody could have known, who the countess was or the object of that bequest, if he had not given her surname as a *key* to lead to the discovery. In this will he calls the sitting lord

his son Arthur, but not by his title of honour as he does in a subsequent will executed in the month of lady Anglesey's power. He gives him 200*l.* a year, 'till he enters the university, or is admitted in one of the inns of court to apply himself to the study of the law; and in that case he is to have 300*l.* a year. But it may be said, that would not be an useless education to a young nobleman; but then there is a devise in the same words to Richard, differing only in the quantum of the allowance. Lord Anglesey must have had the same idea with respect to both; he clearly did not consider him as legitimate at that time, because this will gave each of them the same power of making a jointure; the same power was given to Richard his natural son, who never could be an heir, that was given to Arthur. Then he directs his trustees to be attentive in educating both his children in literature and the study of the law. And it appears clearly, that he intended, that Arthur should after his death be a practising barrister, and receive only 300*l.* a year out of the estate, 'till all debts and legacies (which were very considerable) should be paid. This was providing for an event after his own death; and if any thing said or done by lord Anglesey ought to have the *smallest weight* in this case, this provision speaks loudly, that he was well aware, that Arthur could never be a peer of Great Britain; for a peer of Great Britain cannot be a practising barrister; he has a judicial capacity, and cannot with propriety argue as counsel in a cause, which he may finally determine; and the duke of Somerset's younger son, tho' only a lord by courtesy, was not permitted to practice as a barrister after the honour of dukedom descended on his father. But in the year 1754, when the influence of this lady was grown still more powerful, (for it appears to have increased with his years) he made another will, whereby the legacy of a 1000*l.* a year is given to Juliana countess of Anglesey, omitting the name *Donovan*, because the marriage of 1752 had established her, right to the title of countess. In this there is no mention of the study of the law, no poultry maintenance of 300*l.* a year; here her influence operated: In two years only after the former will he by this reduces Richard from 500*l.* a year, given to him and his heirs for ever by the former will, to a sum of 3000*l.* tho' being but nine years old he could not then have offended or disoblged him. By another will, made in a few years

after, his bounty to Richard is reduced to 1000*l.* which is most punctually paid him. But here her ascendancy was so great in 1754, that she could make him do, what she pleased, as appears from the evidence of Mr. Perce, the witness of the sitting lord. He told your lordships, that Richard, who committed a childish fault, was not to be forgiven but by a letter to my lady; and that the boy had the sagacity to see her influence so strong, that he desired the letter to be written to her, for that nothing could be done but by her interposition. Lord Anglesey in 1752 was fifty eight years old, she about thirty, *extremely beautiful and designing*. Experience shows, what a great degree of influence, such a woman aided by a number of very promising and engaging children, may acquire over a man *destined* into the vale of years. Now for the first time this idea of marriage was entertained, or at least it was first mentioned to lord Anglesey.

The next part of the evidence, which I shall mention, is very material. Mr. Francis Annesley of Ballysax, the uncle of the claimant Mr. John Annesley (and who, if he had lived, would confessedly succeed to the honours now in question) was in 1749 indebted to lord Anglesey in the sum of seven hundred and fifty pounds, and a bond for that sum was in the year 1749 (eight years after the pretended marriage in 1741) executed by him payable to his lady by the name of Juliana Donovan. It was discovered, that this bond had amongst other papers come into the hands of your petitioner Mr. John Annesley and (no doubt) concluded that it would be produced; the counsel for the sitting lord knew, how necessary it would be to lessen the force of such evidence, (*but how ineffectual were their endeavours?*) and therefore by way of anticipation asked lady Anglesey about it; who admitted, that such a bond was taken in her name, and signed by her in her maiden name, for the money due on it; but she tells you, that lord Anglesey came up twice to her, before she would sign the receipt, and that Ians came up, and she would not then sign it for him, but did at last, when Ians said there would be no living in the house, if she did not sign it. It is established in law, as in common sense, that *no person can by his own evidence do away the force of his own act*. She in 1750 signed a receipt in her maiden name to the very person, who was to contend for the honours with her son in case of failure of issue male

in lord Anglesey, and now endeavours by *her own evidence* to enervate and weaken the consequence of that act. Mr. Butler tells you, my lords, she came down in tears muttering the words, *cruel usage*, and signed the receipt with reluctance. This transaction happened after the death of Charles Annesley, when all motives for secrecy were at an end, two years only before the marriage in 1752. In 1750 lord Anglesey would keep the marriage *secret as night*, in 1752 he would make it *public as the noon day sun*. She said, the reason why she was uneasy at signing that particular receipt, was, that she would not have any thing appear on record against her in her maiden name; she did not appear so ignorant to your lordships, that you can suppose, she thought a receipt on a bond was to be on record; she was not afraid to sign a deed, that was to be on record, for in six months after she signed a warrant of attorney to acknowledge satisfaction on the record of another judgment, obtained by herself by the name of Juliana Donovan against Edward Hay for six hundred pounds, which, I suppose, she did not imagine would be produced; when she gave her former evidence, there was a judgment proved and a record produced and proved also, whereby it appeared, that satisfaction was acknowledged on the record of that judgment, and it appears by the record itself, that the warrant was executed by the same person, by the very name in which the judgment was obtained, (*to wit.*) Juliana Donovan. The officer tells you, it was satisfied on the oath of John Ians, the person who swore the affidavit of the execution of the warrant by Juliana Donovan; It is plain, that he, who lived in the family for the whole time, that he who was the friend, the confident, of lord Anglesey, that he, who prevailed upon lady Anglesey to sign this unlucky receipt, did not consider her *then* as married, or he could not swear, that he saw Juliana Donovan execute it; but she was again called to endeavour to take away the force of this evidence, and she said, lord Anglesey took this bond without her knowledge; why should lord Anglesey, a necessitous man, take these two bonds in her name? Why by her maiden name? for he could not flatter himself, that the private marriage would not be contested, and he must have known, that these bonds would be strong evidence to disprove it. Why did he not take the bonds in his own name? why not in the name of any trustee whom it could not affect? no reason

can be assigned, why he, who is sworn to have been in the utmost distress for money, should suffer two large sums to remain at interest so long, after they became due. There is one obvious way (and one only) of accounting for these transactions, which is, that Juliana Donovan *then* aspired to no higher honour than to be the kept mistress of an earl; and had it in her contemplation (as *ladies of that kind generally have*) to have some certainty, some provision made for her in case of separation, in case she should be obliged to yield to *some newer beauty, and mingle with the herd that went before her*. She knew, that any charge the earl might have made for upon his real estate, would not affect it, in case he should marry and have a son; that even in case he should not marry, that such a charge in favour of her would be disputed and difficult at best to be established; that he had no personal estate, but these sums due to him, that if the bonds should be taken in his name, the sums due on them would be part of his assets, and go to his creditors, who were numerous; therefore, and therefore only, she got these bonds passed to herself as the only certain provision, lord Anglesey could then have made for her. And this accounts for Mr. Butler's testimony, this accounts for her *tears*, this accounts for her muttering the word, *cruel*. Had she not cause for her tears? was it not cruel of lord Anglesey to deprive her of that 750l. which he had before given her, and to apply to the purchase of a lease for his life only of the house and demesne of Ballysax, from Mr. Francis Annesley? why should she be more affected at signing her maiden name to *that* receipt than to many other writings, to which, she admits, she signed it before and after? the reason is plain, she was to lose 750l. and the interest by signing that receipt. Is it not natural, that she should be affected at such a loss? at being deprived of the only certainty she had then acquired? Had she not the fate of *Salkeld, Simpson, and Prust* before her? and she could not know, how soon it might be her fate to follow them moneyless and unfriended.

The next piece of evidence is too strong for human ingenuity to get over, or to support this pretended marriage against it; I mean the letter from lord Anglesey dated in 1746, and admitted to be all his hand writing, directed to captain White, then his lordship's agent, wherein he desires him to supply Mrs. Donovan *with what little money* she might have occasion for, for the purpose of doing some

some little things about his house at Bray; and a receipt appears on the same letter dated five days after, signed *Juliana Donovan*, and admitted to be her hand writing; for so small a sum as eight pounds; and the receipt is witnessed, *and to your lordships astonishment*, by the identical Charles Kavanagh, who is said to be the witness to the pretended marriage of 1741. She had been then married, as she alledges, about five years, and her son, the present sitting lord, was born in 1744, and all her daughters were born at that time except one, and yet lord Anglesey, who in the year 1752 would at the price of his eyes have legitimated his children, had not in 1746 the smallest idea of it; would any man, who was married and had children, have written such a letter? would any woman of her spirit and understanding have carried such a letter? would a woman, conscious that she was a countess, have signed a receipt in her maiden name for such a trifling sum or for any sum of money? *where were then her tears? was she then insensible of the cruelty of such usage?* could a woman be a countess for five years, and her lord's agent not have the least suspicion of it? would the agent have dared to demand a receipt from his lady, and what is unusual, except where the receiver is suspected, have it witnessed? would Charles Kavanagh (had he been a witness to her marriage five years before) have witnessed a receipt from Juliana Donovan? would he have testified under his hand, that he did not consider her a wife in 1746? is his certificate in 1741 more authentick than that of 1746? His certificate of the marriage cannot have the smallest weight, since he has in the year 1746 certified, that she was Juliana Donovan; had he been called upon to prove this receipt, he must have sworn, that he saw Juliana Donovan sign the receipt, which would have been a direct contradiction to his certificate, in the year 1741. The stile of lord Anglesey's letter is so far from being that of a husband writing to his wife, that it speaks the language of a person distrustful of her honesty; for he limits his agent to a small sum to be advanced to her, and by his letter appropriates that sum, that the agent might see it properly applied; circumstances, that cannot err, arise from this transaction, which out-weigh any evidence, that has been given of the marriage of 1741. Lady Anglesey tells you, that she preserved this darling certificate of 1741 in the robings of her

gown, and kept it, that at a future day she might shew the world, on what terms she lived with lord Anglesey. Hard! that it could not shew the world, on *what terms she went to live with lord Anglesey*; of that there is no doubt! But did this certificate remain for eleven years in the robings of one gown? or did she transfer it to every gown, that she might carry it about as a *charm or preservative* of her person from any injury, as she hoped, it would one day be a *restorative of her honour*; it was as likely to produce the one effect as the other. The lady admitted upon her examination, that many letters passed between lord Anglesey and her, during the time this marriage was kept secret; it appears, that he went to England, very soon after the time of his pretended marriage; one would imagine, that some fond letters might pass between them during that absence, *at least so immediate after marriage*; and tho' often absent from her, and tho' in space of eleven years she had received so many letters from him; and tho' she kept the certificate so carefully as evidence of her marriage, yet, tho' called upon, she has not produced one letter from his lordship to her, tho' she said upon her examination, that tho' he did not call her *wife or himself husband*, as that would be inconsistent with their scheme of secrecy, yet that it would appear from the letters, that they were written in the stile of a husband to a wife; so then tho' terms *husband and wife* were not used, yet the stile of an intercepted letter would have discovered the secret: Why then were the terms *husband and wife* omitted? No doubt the letters of a man to a lady, to whom he was privately married, must have been written in so different a stile from those to a mistress, that there would be no difficulty in discovering the husband in them, or at least that they were not wrote to a mistress, unless lord Anglesey recollected, that *that wife had been his mistress*, and knew, that a loose stile would be more agreeable to both; why then has not lady Anglesey produced some of those letters, that *your lordships* might judge of them? The only reason, that can be assigned, is, that she knows, they would be strong evidence against this pretended marriage? It can't be supposed, she has lost them, as she kept other evidence so carefully, not near so material as such letters, as she described them, would be; and she can't be supposed to be ignorant of the weight, they would have, as women of less understanding, than she appears

pears to be blessed with, are in such cases critically discerning. I am aware, that it may be said, that if the certificate was forged, letters might also be forged, in support of that certificate; it is easy to fabricate and give an air of probability to a single detached piece of evidence, such as this certificate. But it was above these shallow contrivers to forge a chain of evidence, to *invent* the *minutiae* necessary to give an air of probability to such a correspondence; to calculate dates and places after a length of time; to counterfeit the post marks: the attempt would have laid them open in many points to detection. And yet I impute the omission to the *badness of their heads* and not to the *goodness of their hearts*.

There is in this case another strong circumstance against the marriage in the year 1741. It appears, that in the year 1746 lord Anglesey brought Mr. Richard Annesley (then an infant) from England to the house, where lady Anglesey then was; from his age it was found evident to her, that he was begotten soon after the marriage in 1741; yet he is put under her care without apology, and what is more strange, he is not only received by her without reproach, but cherished, and she says, that she was always very fond of him. How ill does that declaration accord with the alterations of the several wills to his prejudice? It often happens, that a man brings into his family a natural child begotten *before* marriage; but it requires an uncommon effrontery to bring a child, got so recently *after* marriage, to a wife, and more uncommon humanity in her to entertain him. The evidence principally relied on for the sitting lord is the certificate of 1741; if the name Nixon Donovan was proved clearly, it would only show, that the certificate was then signed; so far only it could go, and could never be sufficient evidence of a marriage. Certificates are in this kingdom rarely, if ever, resorted to as evidence of marriage, and the production of so *unusual a piece of evidence* on this occasion shews clearly, that *no other evidence could be procured*. The proper, legal, mode directed by counsel was deserted, from a consciousness that it could not be carried into execution. The evidence of lady Anglesey is clearly contradicted by other evidence; if Charles Kavanagh's name was really signed to the certificate, it is not material; there are but two attempts to prove it; lady Anglesey certainly swears to it; and the next

person produced to prove this certificate is Anthony Ryan; he is called *gentleman* (but it is well remembered, what sort of a *gentleman* he appeared to be) and he tells your lordships, that he was very well acquainted with the hand writing of Nixon Donovan; that he saw him at school in 1738; he died in 1741; *critically after the marriage*; so that he could not have seen him write for thirty years; yet he swears, he believed the name to be his hand writing. Besides your lordships must recollect, that he could not *spell* the name, he came to *prove*; for he, being desired to write the name, left out an (a) in Donovan; and besides he told you, that he never saw him write except once in the regiment, when he saw him write a song. The belief of hand writing is received as evidence, only where the belief is founded on seeing the party frequently write; and, if we may judge from the *miserable clerkship* of this witness, who *with difficulty* scrawled his own name, he is not capable of distinguishing between hand writings. But James Darcy totally undoes both the evidence of lady Anglesey and of Ryan; for he tells your lordships, that he was called upon by the agent of the sitting lord to go to England to prove the hand writing of a person, whom he had not seen write for thirty years; yet he determined to *prove* the hand writing, and did it fully before the lords of Great Britain; but when it was produced to him *here*, he swore, *that was not the paper*, that was produced to him in England: He denied the name Nixon Donovan, signed to that certificate, to be the hand writing of Nixon Donovan; he told you, that there was a *real certificate* produced to him in England, and that this was not it: Had he judged of it from the similitude of the hand writing, he would have proved it *here*, as he did in England; but *here* the name only was produced to him, and judging from that, and not knowing that it was the certificate, which he had *engaged* to prove, he swore, it was not the hand writing of Nixon Donovan, and yet he admits, he went to England to prove it; to prove a hand writing which he had not seen for above thirty years, subscribed to an article, which he never saw until he proved it. It appears, that there are several other school fellows of Nixon Donovan living, and persons of *character*, and none of them are produced; but *persons of character* would not have undertaken that part.

I will

I will now consider, what credit the certificate derives from the name of Neil. The most solemn act or assertion of such a man would not deserve credit: he knew, that lord Anglesey was actually married to Ann Simpson for a number of years. He was chaplain to lord Anglesey, and in the house with them, and he instantly without a licence married *him* to Juliana Donovan. He was a better lawyer than a divine, and marries him upon a point of law; gives credit to the bare assertion of lord Anglesey, that he was married to Ann Prust, who had died just before. He judges of the legal nullity of Ann Simpson's marriage, and marries him without a licence, tho' he was conscious, that he was the husband, in *fact* at least, of a woman whom he knew to be then living, and whom he had for many years considered as countess of Anglesey. This marriage was had, as is alledged, whilst a suit was depending to establish the marriage of Ann Simpson; which shews, that Neil had no regard to the duties of a clergyman. If he was an honest man, if he was a man deserving of credit, he would not have celebrated such a marriage. But the certificate of the best clergyman is not sufficient to establish a marriage. There have appeared two clergymen actors in this farce; such men! that if their certificates were to be evidence of marriages, who knows, how many wives the best of us may have, or how many countesses your lordships may have created? But this certificate is not material evidence, or, if it were, it would not deserve the least credit, when your lordships considered the conduct of this man as related by Mr. Tottenham, when you considered that the antick tricks, he played at the command of lord Anglesey, would disgrace a monkey; nay, his very close connection with that noble earl shews the *looseness of his morals*, and deprives him of any credit, which he might otherwise deserve: but tho' great pains were taken to procure evidence to establish his character, they could only bring three witnesses, who speak to time, months of life only, and in that short period it appears, he was suspected of having celebrated a clandestine marriage. The inability to give any good account of this *old man's* character, who lived in and near Dublin for so many years, except for about nine months (*nine months of hypocrisy*) is clear proof that the rest of his life was infamous; besides the part he acted in the marriage of 1752. The affectation of surprize at a *preconcerted*

plan, to which he was privy, the account given of him by the other witnesses, shew, he was a man fit to co-operate in so wicked a scheme.

James Darcy contradicts lady Anglesey, and Ryan is not to be regarded. I own, Cornelius Donovan was produced to prove Kavanagh's hand writing: 'Tis enough to say, that *he* is the brother of lady Anglesey. There was another man produced, who dealt for woods, and is indebted to the sitting lord, and he swears to the hand writing of Charles Kavanagh. This Charles Kavanagh gave receipts for lord Anglesey's whole income for several years; and yet these are the only witnesses to prove the hand writing of a man, which (if genuine) might be proved by an hundred good witnesses: But there is on the face of this certificate sufficient to condemn it. Your lordships must have observed, that there is a (d) over the figures (15), which letter (D) could only answer to the 2d, or 3d, or 22d, or 23d, and as the letter (d) could not answer to the day of the pretended marriage, the letters (th) are written over it; but it is plain a (d) was once written there; which shews, that the certificate was altered after the death of Neil, from an apprehension that an *alibi* of lord Anglesey might be proved on the day *first* written: It was therefore changed to a day, on which it *could be proved*, that he was at home. Other exhibits in the hand writing of Kavanagh have been shewn to Cornelius Donovan, and in these there is a manifest variation from his signature to the certificate: this difference is imputed by Darcy to drinking; but tho' that might cause some minute variations, yet the *general style* of writing would in all the exhibits have been the same: Surely the mere similitude of hands, proved by persons who cannot be indicted for perjury (for they swear only to belief) is not sufficient to establish such a marriage, in the story of which your lordships must see all the circumstances naturally arising from a fictitious, and not one usually attendant upon a real, marriage. The proof of Kavanagh's hand writing is immaterial evidence, for lady Anglesey might easily have got this certificate framed in 1749 to answer the purpose of it. Kavanagh did not die till the latter end of the year 1749, and he and Neil might have framed this certificate, and put the name Nixon Donovan to it.

The next evidence, relied upon in support of this marriage, is the evidence arising from *cohabitation*. I admit that the parties in this case

case cohabited from the year 1741 to the year 1752; that long cohabitation induces a presumption of marriage; and that a number of cases may be cited from the books to this point; but the answer is obvious; the fallacy consists in the equivocal idea of cohabitation; what is that cohabitation, which the law means? It is the public and notorious living together of a man and woman as husband and wife; it is the continued public acknowledgment of a man, that a certain woman is his wife, and their public and universal reception in the world as such. This argument, my lords, might have been properly used by Mrs. Simpson, but cannot be used by lady Anglesey: There was not a cohabitation, in the legal sense of the word, between her and the father of the sitting lord, for an hour from the year 1741 to the year 1752. As for the cohabitation from the time of the public marriage in the year 1752 to his death, that has no relation whatsoever to the present question. Thus therefore, my lords, the gentlemen argue; "The law says, that if a man and woman live long together notoriously professing themselves husband and wife, they shall be presumed married: Therefore the cohabitation of lord Anglesey with Juliana Donovan from the year 1741 to the year 1752 as his mistress, and not as his wife, is that cohabitation, which the law intends, and is a conclusive proof, that they were married." Can such an argument have any weight with your lordships?

The declarations of lord Anglesey, that he was married before 1752, are immaterial evidence, unless your lordships will establish this principle, that a man may by a subsequent declaration legitimate all the children, he had before, and unless you will give that credit to his declarations, which he never expected or deserved. Does it appear, that he had any such sense of religion as to ascertain his telling truth on any occasion? Had he deserted or repented his former course of life when he made these declarations? I should be willing to suffer his failings to be forgotten, if the advocates of the sitting lord did not claim for his declarations that credit, which should only be given to the declaration of a man of uniform piety and character.

They are no death bed declarations, made with the immediate apprehension of the dreadful consequences of telling a lie in that awful moment; and if they were, yet they would not be evidence of this marriage. But

these declarations, if ever made, were not made till 1752, except to Mr. Mutton and Mr. Falbot, and contradict the plain of secrecy, which lady Anglesey swore was agreed upon and inviolably preserved.

I am sorry to introduce to your lordships another clergyman as bad as Nellis who has been examined for the sitting lord. Before this trial I did not imagine, *since Nell was gone*, that such a man could be found amongst the clergy of this kingdom. This gentleman tells you, that without any previous discourse leading to or motive to give rise to it lord Anglesey repeated these words, "Juliana countess of Anglesey is my lawful wedded wife and none other, and my children by her are my lawful children and none other." This is an improbable story, and, if true, not otherwise material than to shew the earl's consciousness that they were not his lawful wife and children, and his shallow artifice to establish his preconceived plan to make them considered such. But I beseech your lordships to consider his last will, wherein he enumerates the natural children, whom he had before his marriage with Juliana; he mentions Richard among them, and that shews he was not married to her, when Richard was born. He says, Whereas I have several children by Juliana countess of Anglesey, *since I intermarried with her*. Never was such a recital before in a will; that a man had several children by his wife, *since* he married her. It necessarily implies, that he had some before. This uncommon recital arose from a conviction, that it was necessary to do something to legitimate the children born long before. Another remarkable circumstance in this will is the absolute and unlimited devise of all the family plate to Juliana countess of Anglesey, which marks her growing influence over him, and shews, that she could turn and mould him to whatever form, she pleased; for by a former will he had given it to her for life only.

Hitherto my lords I have considered this case principally on the evidence given on the part of the noble lord. It appears, that before the marriage in 1752 Arthur and Richard went hand in hand without any distinction; their education the same, no distinction at school except the preference given to Richard as the elder. Miss Batt indeed said a little preference was given to Arthur; *he was the son of the favourite sisters*; but they were educated in the same manner at the school of an honest clergyman. Had she

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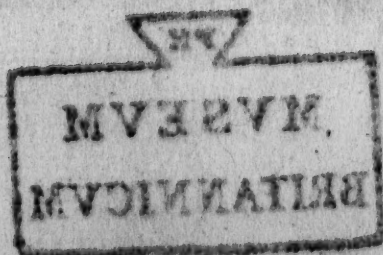
she been countess of Anglesey, would she have clothed these boys in the same way? Her love, her affection, her prudence would not let her do it, if she considered *herself* as the *wife* and her *son* as the *legitimate child* of the earl of Anglesey. In this last will he says, if Juliana countess of Anglesey shall be enitent of a child by me: No such words as *by me* were ever before found in a will; it shews clearly, that in every time he wrote, he had a strong impression on his own mind of the illegitimacy of his son.

It is intended by the gentlemen of the other side to make great use of the evidence of Elizabeth Smally, who, I confess, made but a bad figure: But whose witness was she? The present lord owes *to her evidence* the honour of sitting two sessions among your lordships: He got affidavits from her, and made the first appeal to her veracity: She was produced in England by lord Mulgrave, where she made a bad figure also. Our case required no such assistance, tho' I concurred in producing her, I did it only from the necessity of the case, as she had been examined in England, and Mr. John Annesley would not intercept any evidence from your lordships, and was totally indifferent, what evidence she gave; she was first the witness of lord Valentia, and from him she deserted to lord Mulgrave. I admit, that her evidence is extremely suspicious; but that cannot reflect any suspicion on the case of my client, or strengthen the case of the sitting lord. We produced but one witness; we do not rely on the evidence of Elizabeth Smally; we desire to borrow no aid from it. There is however strong ground to suspect, she was tampered with, but by whom? Did any friend, did any witness, of Mr. John Annesley pay her *friendly visits*? Burne, an avowed witness and friend of lord Valentia by his own confession lately paid her *friendly visits*, as he expressed it, in this town. It may be said, that in England she proved the name Nixon Donovan to be the hand writing of Cornelius Donovan: But what was that to us? The proof of the certificate lay on them; it lay not on Mr. Annesley to disprove it. They have disproved their own certificate by Darcy. Smally was only inconsistent in this, that she mistook the certificate; and women are seldom skillful in hand writings.

Great stress has been laid on the report of the attorney and solicitor general of England and Ireland in favour of lord Valentia.

The great abilities, experience, and integrity of these gentlemen, would give their determinations in any case great weight, if they had determined upon legal and proper evidence: but their reports were founded upon affidavits only, partially stating facts, upon the affidavits of Mrs. Smally, Darcy, and Mr. Tottenham, amongst others, which were all procured by the sitting lord; and yet Mr. Tottenham's whole knowledge of the case being disclosed to your lordships, he appears a material evidence against him. Darcy has here sworn the contrary of what, he has sworn in his affidavit, and the council for the sitting lord now strongly contend, that Mrs. Smally deserves credit; so that nothing could be more fallible than reports founded upon such evidence. But it is never referred to the law servants of the crown to determine questions of that kind, but merely to report their opinions thereon to his Majesty.

The case made before your lordships against the sitting lord is so much stronger, than that which was made before the lords of Great Britain against him, that I probably should have omitted their decision, and declined to borrow any aid from it, had not the council for the sitting lord in stating his case taken as much pains to diminish the force of it: But that, I trust, was a vain attempt: The solemn deliberate determination of the most illustrious assembly in these kingdoms, (amongst whom were some of the most distinguished law lords) upon the same point must have great weight with your lordships. I will not say, that your lordships are implicitly bound by it; but certainly it is a good example to follow, unless the sitting lord made a better case *here*, than he *did there*, the contrary of which must be admitted. The verdict of a petty jury between the same parties upon the same point is legal and proper evidence, and generally decisive before another jury: How much greater influence ought the adjudication of that great assembly to have with your lordships? Nothing but absolute necessity, arising from irresistible evidence, should induce your lordships to create the absurdity, that will follow from differing with the lords of Great Britain; the same person will in one part of his Majesty's dominions be a *Peer* as the legitimate son of the the earl of Anglesey, and in all other parts of it be an *illegitimate Commoner*. It has been said, that thirteen lords only were present at the determination in Great Britain: I suppose, it is meant to be inferred from
O o thence,



thence, that if there had been a full house, it might have been determined otherwise: but I think the contrary would have been the case: For many noble lords attended the enquiry, tho' they did not wait the final issue of it; and there can be no doubt, if the sitting lord (who is married to the daughter of one of their own illustrious body) had a good cause, or one that could be supported, that every lord, who was able, would readily have attended to support it: But, to their immortal honour be it said, in their judicial capacity no influence can reach them, in *that* their integrity has ever been unquestioned. They wisely foresaw (as no doubt your lordships will) how prevalent the example of the Great is amongst the lower ranks of people; that if so great an assembly, composed of the first men in the nation, gave *sanction* (for neither you my lords or they can give *credit*) to such idle tales of matrimony universally known to be fictitious, and *clearly proved* so, no man of fortune, who keeps a *breeding* mistress, will ever die without a lawful issue to inherit his honours and estate;

and she must be a foolish mistress indeed, who cannot frame a more *probable story* than the *present*. Juries will be misled by your example: A determination in favour of the sitting lord would indeed be alarming to mankind; it would enable every mistress (and it is known, that every mistress has *Her Gallant*) to give heirs to the best blood and to the greatest honours and estates in Great Britain and Ireland, to the disinherison of rightful successors, and to the degradation and dishonour of the chaste marriage bed, which will no longer be of any esteem or value among men, if so monstrous a *fiction* as this shall succeed, and if men at any distance of time may legitimate their issue by the *dash of a pen*. I hope, therefore, that consequences so fatal will be prevented by the decision of your lordships, in favour of my client, founded on the clearest evidence, the strictest rules of justice, the steadiest attention to the welfare of private families, and the general order of society.

Die Luna, 25th May, 1772.

Lord RANALAGH in the Chair.

Council called in.

Mr. RECORDER proceeds for RICHARD ANNESLEY.

My Lords,

UPON this great inquiry, the consequence of which is a right to a seat in this noble assembly, I will offer a few observations upon the evidence. I will not meddle with the case of John Annesley of Ballyfax, because two questions of great importance are to be first considered, and from the consideration of them it will appear, that he cannot have a right to a seat here, while Richard Annesley lives, or any of his issue.

The first great question is the authenticity of the certificate of 1741, and the reality of that marriage. If that shall be determined in favour of that marriage, it makes an end of every other question. It has been endeavoured to be supported by various kind of evidence; evidence to the fact, evidence to shew lord Anglesey and Mr. Neil were in

this kingdom, and at Camolin at that time; then by evidence of the writing of Neil and his declarations; then by evidence to the hand writing of the supposed witnesses to the certificate, and lastly by the declarations and solemn acts of lord Anglesey. As to the proof of the fact of the marriage in 1741 Lady Anglesey is the only person alive said to be present at that marriage. Your lordships will recollect the great objection, which lies to her credit, almost an objection to her competency; but her credit will in this assembly be duly weighed. Exclusive of her natural partiality for her son, she is interested in establishing her own reputation for a number of years. The provision for her depends on the event of this question. By the articles of 1737 lord Anglesey was tenant for life with a power to settle a jointure, remainder



mainder to his first and every other son in tail, reversion to himself in fee. He levied fines and suffered recoveries; that in point of law was a forfeiture of his estate for life, and of his power which was annexed to it. If then Richard Annesley was legitimate, he had a remainder in tail executed, and might have entered for the forfeiture, so that she is most materially interested; but to give her testimony all weight consider what she lays to be the ground-work of the proceeding of this marriage: She gives a most artful and sensible reason, and there is no dispute of her abilities. The great object, she says, was secrecy from lord Anglesey's apprehensions of Charles Annesley and the pretender. If secrecy was the great end, the means most likely to accomplish that end would be used; but not only from her own conduct, but from the certificate itself, secrecy could not be the object: This certificate tells you, that Neil joined lord Anglesey in matrimony to Juliana Donovan according to the Rubrick of the Church of England; and form of Common Prayer. If the certificate is false, it can have no credit; if true, it must be true in all its parts; then marrying according to the Rubrick could not conduce to secrecy; for according to the Rubrick a marriage must be by licence, or the parties must be called in church; so that from the very certificate itself the great reason given by her falls to the ground. If the certificate is true, who are the witnesses to prove this great part of the case? Nixon Donovan, the lady's brother, a young man of eighteen or nineteen, but a few days acquainted with lord Anglesey, his character unknown to him, and one most likely to divulge the secret, not only from vanity, but a natural desire to clear up the doubtful situation of his sister. Charles Kavanagh was the other; a man addicted to dram-drinking, who surely was not a person to be trusted with so great a secret, which he would disclose in his cups at his next merry meeting. She then mentions, how extremely careful she was of this certificate, and her reason was, that hereafter it would convince mankind of her then situation: Does this care correspond with her conduct as to her letters, which she received from lord Anglesey during their different separations, not one of which she produces? She tells you, those letters are burnt: if those letters speak in the style of a husband, they would be of great service to her; then where are they, why not produced? they would give great

light in this case. If they were guarded in their words, yet they might speak of a secret existing, and the earl's fears least it should be discovered. Altho' expressions of that kind would not be then understood, yet at this day they would prove a secret then existing, and be perfectly intelligible. She does not keep these letters in the robings of her coat or pocket-books, but is extremely careful to keep the letters wrote by Richard, because they would be of use to her, as he would one day claim to be legitimate. It is unnatural, that she should not impart her situation to any body: Her mother lived in the house with her, saw her bearing children, and yet is not the confidant, but a fitter one is found out in the person of her brother. By her own admission she was resident with lord Anglesey a long time before the marriage, and her first child was born in four or five months after that marriage. Was it natural, that he should at his time of life, who was of a vigorous habit of body and mind, marry that woman, he had upon easier terms, and one in the meanest rank of life? it is against every principle of experience as to men of debauched principles. If it was an act upon his death-bed, or when debilitated with infirmity, it might be otherwise. Is it natural to suppose, that after she was married, she should permit the daughters of Mrs. Simpson to live in her house, be called by titles of honour, and one of them married to a gentleman by a noble description? She cannot give an account, who were the sponsors at her son's christening; the reason is, some of them might be alive. As to the general reputation of the country, it may be collected from her not being visited by any of the principal families, or even by her own relations. What was her conduct upon signing the receipt for money on the judgment? The meaning of those words used by her of cruel treatment, was at lord Anglesey's taking away the provision for her, which was perhaps the *pretium pudoris*. The reason given, that it might not appear on record against her, fails, because she in 1746 gives a receipt witnessed by that same Kavanagh, and which was given out of her hands to Mr. Whyte the agent: The reason therefore, she gives for it, can have no weight; for being in Whyte's hand it might appear hereafter against her. How does she conduct herself at Rols? instead of keeping the secret of her marriage she suffers herself to be visited there by a soapboiler's wife and others, fourteen women, none of whose names

are mentioned : but she was not visited by a single person of consequence there. Upon inspecting the second certificate you will find October is altered to September, whatever was the reason of it.

The next part of the evidence is to prove, that lord Anglesey was in Ireland in September 1741; they do not think proper to ask Shepherd French a single word, whether lord Anglesey was then there or not, tho' he was agent to the Rois estate, and resident there from 1718, and can remember transactions at that time; but they supply the want of his evidence by miss Batt: that she delivered her testimony with confidence, I do not deny; but she seems to have a particular and distinguishing memory of things at the greatest distance, in which she had no interest; and, tho' now forty years old, does not remember any transaction of a later date of consequence to her to remember. Her sister, who is older than her, and most likely to remember the transaction of the yatch, is not produced: To shew her readiness to serve the cause she tells of her father's mode of writing, and his using different inks, without being asked about it; but she tells you, in 1752 there was no distinction between the sons; so does Mr. Lloyd; she tells you, that she visited lady Anglesey in 1752; but this could not have been in consequence of thinking her married; for tho' she was her own mistress, she visited at another house, where there was a kept mistress. She says, inquiries were made by Fielding, who denies, there ever were such enquiries: We will however admit, lord Anglesey was there in that month. Cahill and Rigley agree in it, that it was the fifth or sixth. There appears an alteration in the certificate; a (d) plainly at the top over the figures (15), and the figure (5) in (15) appears originally to be a (3). This certificate therefore was framed, as if the marriage had been on the second or third; but upon the consideration of the date it bore, Neil said, it would never do, for that they did not land 'till the fifth, and immediately that alteration is made. The next part of the evidence goes to prove the hand-writing and declarations of Neil; but to this hour his hand-writing is not proved. It is true, a young man twenty-six years old is produced to prove a hand-writing, before he was born: He founds his opinion upon a letter, he received from Neil, yet never produces it. He could be only fourteen at that time; and he informs you, that Neil was unable to officiate in his function at the time

this letter came to this young man, and which was a little before his death. The probability therefore is, that his powers of writing must have altered so as to differ widely, from what it was in 1741. The proof of his hand-writing is rested upon the evidence of this boy; and not one of the numbers, he married and gave certificates to, is produced; but it is endeavoured to supply this by a conversation, he is said to have had with a gentleman on the road, one Kavanagh, in 1752, one he never saw before or after. Is it not most extraordinary, that Neil should tell to a mere stranger that secret, upon which lord Anglesey's fate depended, at a time he was in his power so much as to rise up and dance for him when desired: It is very improbable.

But now as to that part of the evidence, which attempts to prove Nixon Donovan's hand-writing: This young man, who was in the army, was separated from his sister, brother, and mother, and probably must have corresponded with them or his other relations; yet no letter whatsoever is produced as an exhibit. Such letters might be produced, but are not, because they would destroy the effects of this certificate. The proof of his hand is of the utmost consequence; for if his hand-writing was proved to demonstration, it would not be likely, there could be a forgery, where he died so soon after the transaction. It is to be regretted, that a seat in this Noble Assembly is to depend upon such proof as a similitude of hands, where persons swear only to opinion, without any fears of the temporal consequence of perjury: but how is even this to be proved? first by Ryan, who with the other witness James Darcy appears extremely well upon his examination in England, yet what a figure did they both make here? Ryan was a trooper. However the army ought to be and is the seat of honour, yet troopers, I believe, are not over scrupulous. Your lordships will please to recollect his conduct in turning up the certificate to look at the initials of his name: He does not attempt to swear from the hand, but from those initials he put on the back, after he was examined in England. He swears, they left school in 1738; the copy-book was fifteen years at his father's, which brings it to 1753; he says, he saw the certificate six or seven years ago; so that there were twelve years, between the time he saw the copy-book and the time he saw the certificate; and he is to retain in his memory the manner, in which the name Nixon Donevan is written in the copy-

copy-book ; so that the only ground to form his opinion is his having wrote at one table with a school-boy learning to write, and from the copy-book, nothing of which he remembers but the name Nixon Donovan, and from a song he saw him write, not one line of which he recollects. He admits, there are persons of superior circumstances to him, who went to school at the same time ; Plummer and Ingman living near Camolin and Gorey, yet neither of them is produced, tho' they are in health, and there was full time for it. When evidence is in the power of a party to produce, and he does not, it creates a suspicion, that it would make against him : but to supply his testimony Darcy has been examined ; Darcy, who at first seemed planet-struck, yet afterwards his recollection was amazingly mended, after he returned the second time, to the certificate. He admits, it is 40 years, since he saw Nixon Donovan write, never received letters from him, never saw the certificate before he went to England ; and yet goes to England to swear to it : So that upon this great part of the case the noble lord has failed.

As to the hand-writing of Kavanagh Darcy is produced again, and does not scruple to swear to his hand. A distinction is endeavoured to be set out by these witnesses, because Kavanagh wrote better when sober than when drunk : That may be so in the case of dram-drinkers, but still the shape of the letters would be the same. The name Charles Kavanagh to the certificate is apparently worse than to the exhibits ; yet Darcy says, it was his best writing. Another man to prove his writing is Smith. He or his father is tenant to lord Valentia : All his witnesses to prove this material point of the marriage in 1741 are connected with lord Valentia ; but Smith forms his opinion from his receipts, and upon a bond passed to him and witnessed by Charles Kavanagh, sent over to England, but never produced before the lords. All the papers, these witnesses found their opinion upon, are destroyed, or cannot be produced for your lordship's satisfaction.

Another witness to prove Kavanagh's hand is Cornelius Donovan ; but he is lady Anglesey's brother, which is sufficient to shew his partiality. Charles Kavanagh had extensive dealing, and had the conduct of the affairs of the earl as his steward, yet no other witness but those is called to prove his hand. The certificate is not shewn to Fielding, because his answer would be, that it was a forgery.

As the certificate of 1741 was read on

this evidence I must make a few observations. The certificate of 1741 is sworn to be all the hand-writing of Neil, except the witnesses names. Neil is described to be a man of literature and morals, and yet he spells so simple a word as the word (witnesses) in a different manner. It may be said, that may be done by the witnesses themselves. I believe, indeed, that the certificate was all wrote by the same person ; but that it was not the hand of Neil, may be collected from a circumstance, that happened at the marriage in 1752 : The certificate in 1752 was never signed by Neil ; the cause of which may be, that it was framed without his knowledge, that he was obliged to vouch for its reality afterwards ; therefore it would have been imprudent to sign the second certificate, because Mr. Masterfon would see the apparent difference in the hand writings. Persons are not produced or accounted for, whose names are to the certificate of 1752 ; such as captain Troy and his wife ; one witness to that marriage in 1752 is produced, and nothing said as to the rest ; but to oppose these certificates you have the exhibits before you, which speak stronger than a thousand witnesses ; they are proved by lord Valentia's own witnesses, as well as by Hautyrey White. Compare them, and see whether they are similar to the names in the certificate of 1741.

The next part of the evidence is, as to lord Anglesey's declarations and solemn acts. Perhaps if his declarations through the whole were laid aside, it might not be improper. They are certainly contradictory, and cannot be true in every respect. His declarations to Mr. Masterfon just before 1752, when he formed the scheme of a second marriage, can have little weight ; so of his subsequent declarations to Mr. Talbot. He had got the scheme in his head, and made use of every means, which could accomplish it. Mr. Talbot informs you, the exhibits were never produced before the proper officers, the attorney and solicitor general. They determined on evidence made up for the purpose. When they brought Richard to Hagley, and were heaping favours on him, they got him to sign a paper for the sale of woods. The declarations to Edkins in 1760, after my lord's favourite scheme was compleated, introduced without preface or occasion, can have little weight. Opposed to these declarations consider the declarations made by the earl to Stopford Fielding, who appears a gentleman of considerable fortune ;

ture; a tenant to this hour to lord Valentia; and the only credible one produced; he speaks to the general reputation of the country, which was against this supposed marriage; he tells you of the plates not having lord Anglesey's crest, a circumstance before 1752. What was lord Anglesey's opinion of her at that time, if his declarations are to have weight? and they must in one case, if in the other. Here also are declarations of lord Anglesey after the second marriage in 1752, and the message to lord Courtown. Your lordships are pleased to observe the evidence, he gives of the treatment of Neil in 1747 by the earl, his turning him out of doors at night when in a state of infirmity with every opprobrious term; the only reason, that can be given for it, is, that he might hope to kill Neil by so doing; was it probable, he was in the power of a man, he would treat so? Fielding says, he gives the same testimony as to facts, as he did in England; and his evidence corresponds as to facts.

Your lordships will next consider lord Anglesey's solemn acts, which must have greater weight than his declarations. The extraordinary expressions in the will of 1752, drawn by a man of business: from the words "Enscient by me" he must have considered her in that situation, that she might be so by another person; which, if she was his wife, the law could not consider her to be. The last will, he made, has upon it every mark of influence. Notwithstanding the articles in 1737 he takes upon him in every one of his wills to limit an estate for life to that very son, which, if such son was legitimate, he could not do, but his son must have an estate tail. Even if this deed in 1737 was voluntary, it must take effect before his will. He recites several natural children by different women; he enumerates them, and that they were born antecedent to his marriage, and during his separation from Ann Prust. Richard Annesley was proved to be born in March 1742-3, which makes an end of the marriage in 1741. Lord Anglesey's other acts upon record, his fines and recoveries without regard to the present lord, shew, in what light he considered his legitimacy. Lady Anglesey does not join in any one of those fines and recoveries. He did not consider her as having a right; not being his wife the law did not require it.

Another solemn act is his marriage in 1752, Mr. Masterfon is undoubtedly a gentleman of unquestionable character, and has told truly e-

very thing he saw: he is called to prove a marriage in 1752, and an acknowledgement of a marriage in 1741. From his evidence it appears, this was long a preconcerted scheme; that a part of this certificate was drawn, before he came in, and the conduct of Neil and lord and lady Anglesey demonstrate, that scheme was long in agitation. Neil affected to be surprized; yet this very conscientious clergyman, that opposed the second marriage from the impropriety of it, marries the parties over again when desired; even supposing his name proved to the certificate, his character is only supported by a few witnesses from a little town, where he happened to be a curate, and happened to be affected with an unusual fit of sobriety and decorum at that time. The certificate of 1752 only certifies, that most of the witnesses were dead; therefore the reason said to be given by lord Anglesey, that all were dead, is not true, or is contradicted by the certificate. No gentleman of consequence, that was resident near Camolin, who had known it in 1741, is brought in 1752 to be present at the marriage, because he would spurn at being the dupe to the finess of a reprobate clergyman. I cannot agree with Mr. Masterfon in the conclusion he draws from the different treatment of Mrs. Simpson and lady Anglesey; that is not the consequence to be drawn from men of loose principles. The Earl found a happiness in the gratification of an illicit passion, which he could not feel in the tranquil endearments of conjugal engagements; this conduct took its colour from his different situations. What was his conduct to Ann Prust? a sixteen years separation. What to Ann Salkeld? a desertion of her. What to Mrs. Simpson? the same, and added to it a charge of adultery. Benjamin Annesley who was examined in England, is not produced here; he there told so incredible a tale, that he received no credit; it was feared, a similar fate would attend him here.

The case of the fitting lord is not marked by any of those characters, which distinguish truth; it is in general a chain of inconsistencies. Truth is marked with simplicity, or with corresponding circumstances; whereas here the case and all the circumstances are complex and contradictory.

Now, my lords, permit me to consider the case of Richard, which differs in all particulars; it comes under very unequal circumstances, unequal in point of fortune, ignorant of his right till a few months ago;

not

not having a fortune to bring over a number of witnesses, nor having gone over the cause before. A plain and simple tale is by him laid before your lordships. The counsel for Mr. John Annesley did not venture to cross examine our witnesses, and yet now endeavour by the force of ridicule to overthrow that case, they cannot affect by argument. This desolate orphan lost his mother, before he was sensible of his loss, and found in his father his greatest enemy. His case is shortly this; lord Anglesey falls in love with a lady, to whom he is introduced by a country of Wexford gentleman; marries her privately; but to remove the doubts and scruples of the family and Mr. Hay marries this lady over again, by a gentleman who married them before, who appeared in the character of a clergyman, and was so declared by lord Anglesey. From the time he was married in August 1742, 'till he went to Ireland, he treated her as lady Anglesey, cohabited with and introduced her to his acquaintance. Richard is born in 1742-3, treated as heir of the family; but unfortunately in August 1743 lord Anglesey returned to Ireland, and renewed his unhappy connection with Juliana Donovan. In 1746 a scheme is formed to illegitimate his son; he returns with a dancing master, and brings over this child, who from that time 'till lately is kept in perfect ignorance of his situation. Your lordships observe the progress of the alienation of his affection from this child; for by his will in 1754, although he could not possibly have disobliged him between the time of the former will and that, yet he is deprived of 500 l. *per ann.* and left but 3000 l.; this shews, from whence the influence came. Mr. Richard Annesley is obliged to take up the pittance of 1000 l. which was left by the last will; and how is he paid it? by bonds, for the payment of which he is obliged to give a premium. We have produced every witness to the marriage of 1742, that is alive, and have accounted for the rest. Mrs. Buntin ought to receive the strongest credit; for she swears against her own interest, as she must account for one third of the fortune of her mother, if Richard is legitimate. She gives a minute account of the ceremony, which was not a preconcerted thing, but what took its rise from an accidental conversation. She tells your lordships of his being brought to Ireland, her opinion of his death, and her many enquiries for him; we agree, he was deemed

illegitimate in Ireland; it is a part of our case; he thought so himself until lately. From the state of the case of the sitting lord I expected evidence to shew, Mr. Hay was a notorious gambler; that she was a fit partner for him; that Mrs. Knight was perjured, and the whole an infamous contrivance to obtrude an impostor; but no evidence is brought of that kind. Mrs. Glover, tho' she might be produced, is not; which must be, because she could not serve lord Valentia by impeaching our witnesses. We have told, where our witnesses lived, and yet no attempt is made to impeach their credit. Mrs. Knight has been produced to the same great point, a lady seventy five years old, who is not likely at the eve of life to have a lie in her mouth, and perjury in her right hand; charity forbids us to believe, she would be a volunteer in ill: and surely the claimant Richard has it not in his power to make her a recompence. She corresponds in her testimony with Mrs. Buntin and as to the enquiries made after this child. They have attempted to impeach her credit by Mr. Carmichael: but he tells you, she was a person of character, kept company with as such, and is to be credited on oath. She, who was interested to inquire after this child, must be presumed to remember it: but Mr. Carmichael, a man of business, cannot be thought to recollect that, in which he was no way concerned, and had besides very little connection in that part of Ireland, where Mr. Richard Annesley was. Transactions, which are of no consequence to us, are not apt to leave traces on the memory. Mr. Sibthorp tells you, she is to be credited on oath; if he is to be believed, you must believe her, and consequently must believe the marriage. Elinor Fetherston gives her testimony with candour, simplicity, and every desire to tell the truth. She was hired at extraordinary wages, if it was not to nurse the heir of a great family. She informs your lordships of his dress being composed of lace; the anxiety of his father in sending for the physician, and his telling two gentlemen going to Ireland that he was his heir, and desiring them to tell it. To oppose these witnesses on the part of lord Valentia they have called Mr. Cullen: but because the husband of one of our witnesses unfortunately loved play, and wanted to borrow money of his country men, is that to impeach the character of our witnesses? Mr. Kelly has
acknow-

acknowledged, that he would not lay weight upon the transactions in Ireland, and the opinion there of his illegitimacy. Mr. Green was next heir, if lord Anglesey had no legitimate issue; it was very natural, he should give the information, he did, to Patrick Kavanagh, he was the man who brought this child away from Mr. Carrington's, and is led in to be an assistant in the scheme of Juliana Donovan. Mr. Richard Annesley's boyish follies are introduced; his going from school, and his accepting a lease, valued by the under agent of his competitor. They do not produce the subscribing witnesses to that lease. It is said by Mr. Kelly to be very unlikely, that the natural children, and particularly the children of Simpson, should be left with Richard's mother: but she acts the part of a virtuous woman, duped into a marriage, parted from lord Anglesey, and died in the same opinion, that he was married to Simpson, and therefore would not make enquiries after that man, who was not her property; if it was unnatural to have those children in her house, it is a proof of her obedience, and of lord Anglesey's ill usage. But it is allowed by the counsel for Mr. John Annesley to be natural for a woman to take care of children got before her marriage, which was the case of those children, that were brought to Mill Hill.

It is objected, that proof is not made, that Goold, who performed the ceremony of marriage in 1742, was a clergyman. This is the greatest proof, that we do not deal in a forged story. Had our witnesses an intention of that kind, nothing was easier than for them to swear, they had seen him officiate in that character; and where could there be a possibility of contradiction?

It is next objected, that Ann Salkeld made no enquiries or endeavoured to see lord Anglesey, or went to his house. You will please, my lords, to recollect, that it appeared in evidence, that on the report of his marriage with Ann Simpson her mother came, and took her from lord Anglesey's house to Yorkshire, where she remained. Her not making enquiries after him was the only part, a virtuous woman could take in the situation, she supposed herself; she would not make enquiries after the man, who had wronged her, and died in the opinion, that he was married to Ann Simpson.

Mr. Kelly declares the case to be improbable. If the witnesses agree in circumstances, he finds fault; if they do not agree in cir-

cumstances, he confutes our story by quoting the Apocrypha.

Mr. Richard Annesley has made the best case, the shortness of the time would admit of, and submits himself to the candid decision of this noble assembly.

Mr. Serjeant Dennis, for Lord Valentia.

My Lords,

I Wish, that the summing up and observing upon the evidence in this case had fallen to the share of the more able advocate of my noble client; not that there is reason to doubt of his success, considering the great attention of your lordships to the evidence, if his lordship had not the assistance of any counsel for this purpose: but where many objections and observations have been made by the learned advocates for the petitioners, and all imaginable pains taken to divert your minds from a recollection of the material evidence laid before you, where the consequence of the decision is so great to the noble viscount, whose right to one of the greatest honours a subject can enjoy (a seat among your lordships) and whose legitimacy are brought in question, my learned coadjutor could with more ease give answers to those objections, and with more clearness detect the fallacy of the observations, and could place the several parts of the many days evidence in that order, which may enable your lordships to decide without difficulty upon the merits of the questions referred to you: however I have this satisfaction, that the omissions, I shall make, will be supplied by him.

I shall begin with mentioning the evidence laid before your lordships on behalf of the noble viscount; for if he has made sufficient proof of the marriage of his father and mother in 1741, it will be immaterial, whether the father was married to Ann Salkeld in 1742, or not. In order to prove this marriage in 1741 lady Anglesey has been produced; she has informed your lordships, that on the 15th of September 1741, there was a marriage between the late earl and her ladyship at Camolin Park; that the ceremony was performed by Laurence Neil, a clergyman of the established church, in the presence of Nixon Donovan her brother, and Charles Kavanagh then steward to the late earl. It appeared, that Ann Prust, countess of Anglesey, the first wife of the late earl, died the August preceding; that the earl at the
time

time of receiving the account of her death was at Bray, preparing to set out in a yacht, belonging to him, for Wales on business relative to his estate there; that he and Laurence Neil sailed in that yacht for Wales, and from thence to Ross, where they arrived early in September 1741, and from thence went together to Camolin Park; and that Nixon Donovan, her brother, about the latter end of August preceding left the regiment, to which he belonged, on a furlow, and went to Camolin. The landing of the earl and Neil at Ross early in September 1741, and their going from thence to Camolin park, is proved by Benjamin Rigly, John Cahill, and Miss Batt, confirmed by entries in her father's book; and Nixon Donovan's being there is proved by Rigly, confirmed by Anthony Ryan. It appears, that the latter end of September or beginning of October lord Anglesey received a letter from Mr. William Annesley, afterwards lord Glerawly, advising him to go with expedition to London, as James Annesley, who had taken on him the title of earl of Anglesey in Jamaica, was arrived in London, and was making friends there; that in consequence of this letter he went to London towards the close of that winter, leaving lady Anglesey at Camolin Park; and he continued in London till August 1743, when he set out for Ireland; that from the time of his return to Ireland he resided with his lady till the beginning of July 1746; that he then went to London to attend the trials of the rebel lords; that he was in London from the 20th of July to the 19th of August, when he set out on his return from thence to Ireland. And lady Anglesey has given an account, that there was a constant cohabitation between them from that time till his death; that he had two or three different houses in Ireland; that she removed from house to house, when he did, that she had the constant superintendence of his family, the use of his equipage, and paid his women servants: She has told your lordships, that he did not think it proper, this marriage should be made publick.

His inducement to this marriage, and reasons for keeping it secret, appear by considering his circumstances at the time of the marriage; Charles Annesley had obtained a decree against him for the third part of his Irish estate; this decree was in consequence of articles made in 1737 between the earl and Charles Annesley, by which it was a-

greed, that the family estate in Ireland, except the small estate at Camolin, should be settled, two thirds on lord Anglesey for life, remainder to his first and every other son in tail male; remainder to Charles Annesley for life; remainder to his sons in tail male; remainder in fee to the earl; and the other third was agreed to be limited to Charles Annesley for his life; with remainders to his first and every other son in tail male; remainder to lord Anglesey and his sons in tail male (without limiting an express estate to the earl for his life) remainder in fee to Charles. By these articles a power was reserved to the earl to settle a jointure on a wife, not exceeding a moiety of the value of the two thirds (which is admitted to be a power to settle a jointure of at least 2000 l. a year, as the estate in Ireland was of the value of 6000 l. a year and upwards; and he was to have two thirds) and also a power was reserved to the earl of charging these two thirds with 25000 l. for any uses, he thought proper. These articles I state particularly, as I shall have occasion to refer to them in the course of what, I shall offer to your lordships.

The defence made in that cause by lord Anglesey was this; he admitted, he had executed those articles, but said, he was imposed on by Charles Annesley and Francis Annesley, a barrister in London, that they took advantage of his ignorance of the legal construction of the wills and codicils, upon which his title to the estate depended; that after the execution of the articles of 1737 he was advised, that he was tenant in tail of the whole estate, and might acquire the absolute dominion thereof. Charles did not by his bill pretend any right to the estate antecedent to those articles; but stated, that he was to succeed to the titles and honours, if lord Anglesey died without issue male; that this was an agreement between near relations to prevent suits, and to secure a convenient part of the estate to go along with and support the honours of the family; and that it had been partly carried into execution by the earl.

This decree has been laid before your lordships on the part of Mr. Annesley of Ballyfax; and it appears, that lord Anglesey considered himself as injured by those articles, and imposed on in obtaining the same; and on that principle gave opposition to the bill filed for a specifick execution thereof; and on the same principle appealed to the

lords of Great Britain. This litigation depended, at the time he received the account of the death of Ann Pruff; by her death he was at full liberty to contract matrimony, with whom he pleased. At this time, being satisfied in his mind, that these articles were obtained by fraud and misrepresentation, he must have had great resentment against the person, who, as he thought, had imposed upon him, and drawn him into this deed; and probably the earl wished to defeat the purposes of that person, as far as was in his power, and would lay hold of the first opportunity of doing so: This he could only do by marrying and having a son; for if he died without a son, Charles would have the whole estate comprised in those articles, and succeed to the honours. But tho' he wished to disappoint those expectations of Charles, and tho' it was natural, that he should wish to transmit his estate and honours to a son of his own, he was at that time subject to the decree against him for the possession of the third of the estate, and made accountable for the profits thereof from the time of the articles. Also at that time a formidable claim was made to his whole estate and honours by James Annesley, an illegitimate son of his elder brother. It was said by Mr. Kelly, that the earl had not heard of that claim 'till after the 15th of September 1741, as that letter of William Annesley was wrote afterwards; but your lordships see, that letter was only to give him an account of the arrival of James Annesley in London; and it appears from that letter, that James Annesley had some time before in Jamaica taken the title of Anglesey; and that letter supposes, that the earl had been before informed of that fact. Lord Anglesey had more reasons to be afraid of this claim, than any other man would have had, as he was the person, who had sent him to America, and had carried on a prosecution against him in England in order to take away his life. These acts of lord Anglesey are matters of notoriety, and such as, lord Anglesey must have supposed, might influence a jury against him, if he stood single and unconnected, and in fact did influence a most respectable jury. My noble client will permit me to say, that the late earl had also the misfortune of being generally disliked, so that in case of an attack against his property and honours he must in a great measure depend on the assistance of his relations. Charles Annesley stood not in the same light;

his connections and influence gave him weight here; and even with the assistance and exertion of Charles Annesley and all his friends lord Anglesey found it difficult to stand his ground against James Annesley. This critical situation of the earl made it necessary for him to keep up the expectation of those, who were in succession to the estate and honours. So long as the earl continued unmarried, the chance of those, who were in succession, was the greater; but if he married and had a son, and that known, those expectations were thrown at a great distance: Besides, if he was to marry, and publish the marriage, Charles Annesley might consider that as an act done in resentment on account of the suit depending between them. His scheme therefore was to attach Charles Annesley by motives of interest, (affection, I believe, there was very little between them.) While the probability was, that he might die without a son, Charles Annesley on account of his expectation to succeed would certainly continue attached to the cause of the earl; but if he should by marriage exasperate Charles Annesley, he had reason to apprehend, that he might come to a composition with James Annesley, who, 'tis probable, would most readily secure to Charles the benefit of the articles of 1737, in order that he might get the title and part of the estate with less opposition. It appears by the testimony of one of the witnesses, that the earl was apprehensive of such a composition; that he was alarmed at every report, and was put into a great fright on being told, that M^r Kercher was seen coming out of Charles Annesley's lodging; the earl was also likely to be soon in the power of Charles Annesley, who might distress him by bringing him to an account for the profits of the third of the estate, to which he had been decreed.

These apprehensions probably induced the earl to enjoin his lady and the witnesses present at the marriage to secrecy; they all at that time promised not to disclose the marriage, 'till he gave them liberty to do so. It is notorious, that gentlemen, who marry women before seduced, generally keep their marriages secret for some time: Every man may recollect instances of it; cases, where the husbands had not as strong prudential reasons for so doing, as the earl had. The injunction of secrecy was observed by all the witnesses, 'till after lord and lady Anglesey had gone in June 1752 to Ross, where he made a publick declaration of his marriage, and where

where lady Anglesey was visited by most of the principal people of the town; Mr. Shepard French named several of them.

If lady Anglesey is a witness to be believed, this marriage has been fully proved. But it is said, that by the civil law a parent is not admitted as a witness in favour of a child in any case; this is a mistake; for a parent is admitted by the civil law to prove his or her marriage for the purpose of establishing the legitimacy of the child; and parents are every day admitted as witnesses for children in the ecclesiastical courts. But will the gentlemen, who would have your lordships observe the civil law as to the admission of evidence, agree, that you should observe it in the decision of this cause? If so, the marriage of 1752 would be sufficient to legitimate the children before born; for both by the civil and cannon law children are legitimated by a marriage (subsequent to their birth) of their father with their mother, tho' not so by the law of England or Ireland. By our law parents and children in all cases are admitted as witnesses for each other; verdicts are obtained frequently for the one on the single testimony of the other. The objection against receiving a child as a witness for a parent in the case of property is greater than against receiving the parent as a witness for the child; for a child may be supposed to consider himself as interested to increase or to prevent the diminution of the property of the parent. By our law the eldest son and heir apparent is received as a witness for his father on a trial concerning the lands of the father; but that lady Anglesey is a competent witness has been decided by the lords of Great Britain, and by your lordships admitting her to be examined: And if a witness is competent, she should receive credit, unless inconsistent in her testimony, or materially contradicted by credible evidence. If indeed lady Anglesey had prevaricated, or was inconsistent, or was contradicted by a more credible witness, the rejecting her testimony might be justified: but it would be absurd to allow a parent to be examined as a legal competent witness, if not to receive credit, because she is a parent: this would be destroying the distinction between the competency and credit of the witnesses. Now I appeal to every of your lordships, particularly to the learned and more experienced lords, whether you heard a witness give testimony with more consistency, or greater appearance of truth, than this lady? She was examined in England and here, and cross-

examined by the ablest council, and yet it is not even pretended, that in England or here there was the least inconsistency or evasion in her answers during those several long and severe examinations. Your lordships observed the readiness, with which she answered on the cross-examination: She did not shelter herself under a pretended want of recollection, as the witnesses on the other side did, who could recollect nothing, but what they were called upon to prove; she was ready to tell the whole truth; she did not endeavour to conceal any thing.

Cases may be, where in giving an account of a transaction, that may be seen in two views, or where the matter rests upon opinion or belief, the bias of a parent or a friend may lead a witness, who would not wilfully swear false, to see the transaction in that view, which is most agreeable to the wish of the witness, or to form that opinion which is most for the interest of the person, who produces the witness: But lady Anglesey's testimony is not to a matter of this kind; if you disbelieve her testimony, you must believe, that she swore wilfully false; that she has entered into a wicked conspiracy with disinterested persons to be supported by forgery and perjury, and that the late earl entered into the same conspiracy. It is probable, that this lady has strong affection for her son; but tho' a child may be dear, tho' a friend may be dear to a witness, your lordships must suppose, that her own salvation is dearer. You cannot think after the appearance of this lady, that for the chance of making her son a peer she would devote herself to certain and eternal perdition.

Altho' the council for the claimants have not been able to find out the least inconsistency in her testimony, objections have been made to her credit, and to the probability of the account given by her. I will take notice of these several objections, as they occur to my recollection.

The first objection is, that she had a daughter in five months after the marriage, and consequently there must have been a criminal intercourse antecedent to this marriage. Here your lordships will look with indulgence upon her situation at the time of her being first acquainted with lord Anglesey. She was then about 16 years old, lived in the house with her mother, her father being then dead. This mother lived in a poor way, dependant on the earl, in the village of Camolin adjoining to his seat; that innocence and beauty, thus unprotected

protected and expoſed to temptation, ſhould fall into the ſnare of a man, allowed to be experienced in the art of ſeduction, is not wonderful; nor is it to be wondered, that a man, who had ſo many opportunities to ſeduce, ſhould find one moment fortunate to his intentions to take advantage of a child in this ſituation. The ſtory of Pamela is told us as a novel; but look to the lady's ſubſequent conduct and behaviour for her character. This young woman is at the age of ſeventeen years left at the earl's houſe at Camolin, miſtreſs of it, with the ſervants under her command. The earl goes to London, is abſent above a year and an half in another kingdom; not the leaſt imputation to her conduct during that time, or the many years ſhe was the wife of an elderly man, tho' he gave her provocation to retaliate. There were men of conſequence in that country, not of the moſt chaſte characters, who would take pains to addreſs a lady of her exquisite beauty during the opportunities, which the earl's abſence afforded. It is notorious, that the man, ſaid to be detected in a criminal converſation with Mrs. Simpson, lived but a few miles from Camolin; and yet the foul mouth of calumny has not dared to attack her reputation during all that time; her conduct was ſuch as to leave no room even for ſuſpicion: Her only ſlip therefore is to be imputed to youth unguarded; but her ſubſequent conduct could be the effect only of confirmed virtue.

It is next objected, that it is improbable, that he ſhould marry her in September 1741, as he had before gratified his paſſion. The many inſtances in every body's recollection, where men of higher rank even than his, of better eſtates, and of better underſtanding, have done the like, and with women not ſeduced by themſelves, would be a ſufficient answer to that objection. But this objection proves too much, as it would be ſtronger againſt the marriage in 1752 (which is admitted) than againſt the marriage in 1741. A man, who had been tired of other women in a few years, was leſs likely to marry after a full ſatiety and gratification of eleven years, than to marry and keep to himſelf a blooming girl, whoſe charms he had but juſt a taſte of. But obſerve the probability on the other ſide: will gentlemen not allow, that affection for ſo lovely a girl might have operated in him? Will they not allow, that he was bound in honour to take the firſt opportunity, he had, of making reparation to the innocent, he had injured? If they will not

allow, that a motive of honour operated, ſurely they will allow, that reſentment might; and that it was likely, he would wiſh to have a legitimate ſon, as ſoon as he could. This Lady, at the time he received the account of the death of his firſt wife, was with child by him. By marrying her he had almoſt a certainty of having a legitimate child in a few months, and a probability of having ſeveral children by her; another woman might not be fruitful. It appears moſt probable, that he formed the reſolution of marrying this lady, immediately after he received the account of the death of his firſt wife; for he took Laurence Neil in the Yatch from Bray to Wales, and from Wales to Roſs. Neil had never before been in that country; and there is no attempt to account for lord Angleſey's taking him this voyage, and bringing him to Roſs at this time, but for the purpoſe of marrying his lordſhip to this lady. This was a circumſtance, that did not appear before the lords in England, and caſually appeared here by queſtions asked by the council for one of the claimants on his croſs examining one of the witneſſes, produced to prove that lord Angleſey went to Camolin before the fifteenth of September 1741; this witneſs was asked, whether any perſon went in the chair with lord Angleſey from Roſs to Camolin; and he answered, that there was a man, who had the appearance of a clergyman; whoſe name, he afterwards heard, was Neil. This fact was proved by the miller, and by Cahill who led the chaiſe; and the teſtimony as to it confirmed by miſs Batt; and probably the fact would have appeared in England, but that the examination as to the earl's being at Camolin on the fifteenth of September 1741 was prevented by the admiſſion in England of that fact. Your lordſhips muſt ſee the reaſon of bringing Neil to perform this ceremony. The earl could not expect, that, when a ſuit was depending, inſtituted againſt him upon a claim of marriage by Mrs. Simpson, with whom he had lived as his wife, and whom he had introduced at the Caſtle and other publick places, a beneficed clergyman would marry him to another without a licence; and a licence could not be obtained; for it is part of the engagement of the ſecurity entered into upon obtaining a licence, that there is no ſuit depending touching a contract with any other; therefore the earl took with him Neil, an unbeneficed clergyman in low circumſtances, who from expectations of his favour would

would do an act not strictly regular, and marry him without a licence. What has been thrown out by the council for the claimant as to Neil's poverty, and as to his having before September 1741 married others without licence (supposing it true) shews it to be more probable, that Neil was taken there to marry the earl, as a clergyman in that country might not be prevailed upon to do that office.

Another objection is, that the earl in his distresses would probably have sought for a woman, who had a fortune: That objection would tend to invalidate too many marriages; it supposes, that affection or honour could not have the least influence in the marriage of this earl; besides, he could not expect, that a woman of fortune would marry him under the cloud of a claim of a prior marriage with a woman, whom he had introduced publicly as his wife. And if a woman of fortune would marry him, it must be publicly, which would defeat his purposes in another respect. His intentions could be only answered by marrying a woman, who would keep the marriage secret for some time; and a woman of family, not before seduced by him, would not have agreed to a marriage with him in the situation, he then was, under an injunction of secrecy; therefore by marrying miss Donovan both his purposes were most likely to be answered; which were to have a son to enjoy his estates and honours, and to have the marriage kept secret as long as he thought proper.

I hope, I have satisfactorily accounted for the earl's marriage with a person of inferior degree, and for his desiring to keep it secret: but it would be dangerous to society, and unjust, if acts depending on the will of a man (especially a man allowed to be generally imprudent in his conduct, following his own caprice, and indulging his own passions) should be annulled, if his issue should be bastardized, because other men, not circumstanced as he was, think, they would not act, as he did: they may as well set aside or avoid his disposition of his fortune as that of his person, because in their opinion it was not prudent. There are as many minds, as there are men; one is not bound to assign reasons for his marriage any more than for his will: much more unreasonable is it to call upon his son (not born at the time) to assign reasons for the conduct of his father.

Another objection was, that tho' there was reason to keep the marriage secret in the life-time of Charles Annesley, there could be

none for keeping it secret after his death. Consider how the facts appear as to this: Charles Annesley died the latter end of August 1747; the earl's difficulties were not at an end; the claim of James Annesley did not cease with the life of Charles Annesley, tho' it did not continue to carry a formidable appearance. Lady Anglesey has told you, that soon after the death of Charles Annesley the earl talked to her of making his marriage publick; repeated this at different times before the actual publication: But however, as the marriage had been kept secret for six years, there could be no great inconvenience in postponing the disclosing it a little longer: for before this time the noble viscount was born. Men are apt to put off doing that, which it is in their power to do at any time; they say to themselves, it makes no difference, whether it is done now or a month hence. Thus men postpone making their wills, tho' the consequence of their dying without wills may be most destructive to their families; thus they postpone the matter of the greatest consequence to themselves, the preparation for another world. But tho' lord Anglesey did not give liberty to his lady or the surviving witnesses to mention the marriage, yet not being himself under an injunction of secrecy, he mentioned it to several between the death of Charles Annesley and the time of the marriage in 1752; and it appears, that soon after the death of Charles Annesley all persons intimate in the family did consider them as married. The evidence as to this I shall hereafter state particularly.

Another objection to the credit of this story was, that it was improbable, a woman of uncommon and of the first understanding should for ten or eleven years keep such a matter secret. I answer, it was part of the terms, on which the marriage was had, that it should be secret, as long as the earl pleased. The greater the understanding of a woman, I hope, it will be thought the greater the effect should an honorary obligation have on her mind. Lord Anglesey had raised her to a rank equal to any woman in this kingdom, which at the time he was not under a necessity of doing. Shall not a lady of this understanding have even a tye of gratitude? the husband was the best judge (at least a good wife should think so) when it suited the situation of his affairs to publish the marriage? Is the interest of the husband to have no weight upon the mind of a wife of the first understanding? It is a sufficient answer to

this objection, that she must be guilty of a breach of the engagement of secrecy entered into at the time of the marriage. She would be guilty of ingratitude to the man, who raised her; she would be regardless of the interest of her husband, if she disclosed the marriage without his consent. Besides this marriage was not intended to be always kept a secret; she was every year in expectation, that it would be made publick without inconvenience to his affairs. But tho' I am far from supposing, that these honourable motives were not sufficient to govern her, yet it is not difficult to assign motives of interest also for her conduct; for during the life of Charles Annesley she could not be intitled to dower out of the estates agreed to be settled by the articles of 1737, as lord Anglesey had not the freehold and inheritance united in him during the life of Charles Annesley; nor could she be intitled to dower thereout after the death of Charles Annesley, as the earl had before then a son born, in whom a remainder was vested expectant on the earl's estate for life; and as to the rest of the estate, if she could recover dower thereout, it would not be very considerable. It concerned her therefore in point of interest to keep her word with her husband, upon whose execution of the powers given by the articles of 1737 her future provision depended; and it is observable, that he did not think proper to execute that power by deed, but always executed it by will, which will was revocable; so that she was always as to a provision dependant upon her husband to the last hour of his life; and her breach of faith would most probably have been attended with the want of a future proper provision, if not with the want of any provision: she might have also dreaded, that a man of his disposition would, immediately after she broke her engagement, have turned her out of doors, and have put her to the proof of the marriage. And in what a situation must a woman have been, thrown off by her husband, and he supported by his powerful relations in the denial of the marriage, and the only surviving witnesses to that marriage dependant in some measure upon him? so that lady Anglesey must be really defective in understanding, if she published the marriage without his consent.

Another objection is, why was not the mother made a witness to this marriage instead of her brother?

Answer. This depended on the earl's opinion, it was in his choice only to say, who

should be present. Nixon Donovan has been described as a person likely to engage, and who actually did engage, his affection and good opinion, in so much that he kept him in his family, not suffering him to return to the regiment, and he died at the earl's house. This young man was of a good family and good principles, therefore it is not to be wondered, he should chuse to trust him rather than a woman, who kept an ale house: but observe the inconsistency of the objections; the former objection supposes it improbable, that a woman of the first understanding should keep this secret; the present objection supposes, that a woman of inferior understandings was the most proper to be trusted with it.

Another observation made, was, that it is extraordinary the mother should suffer her to live with lord Anglesey, without enquiring whether she was married.

Answer. Gentlemen forget another of their objections, that she went to live with the earl, before any marriage alledged. It is not improbable, that the mother might question the daughter as to the reason of her cohabiting; but this questioning, probably was immediately after the cohabitation, which preceded the marriage; and as the mother suffered her to live for some months in a state of concubinage, it is not to be wondered, she suffered her to continue so. But something fell from this lady as a further answer; she said she could not disclose the marriage; but however she did believe, her mother might have guessed at it, and that she endeavoured to make her as easy, as she could, without being guilty of a breach of her word.

Another observation was, that it was improbable, the marriage in 1752 would have been, if there was a former in November 1741. This is accounted for; one of the witnesses to the marriage of 1741 died, another of them died in 1751; so at the time of this second marriage there was no body living admissible as a witness to prove it, except Neil. Lady Anglesey could not be a witness to prove the marriage in 1741, if there had not been a subsequent marriage; for that would be to prove herself the wife of the earl; but when she was unquestionably the wife, she might be a witness to prove, when she became so, as neither her rank or property concerned in that enquiry; the prudence of this measure appears from the event; Neil's life was not better than lord Anglesey's, and if Neil died, there would be no positive witness to prove this marriage; so that the death

of

of two of the witnesses occasioned the second marriage; Mr. Masterfon says, it was so declared at the time of the second marriage.

An observation was made on the certificate of October 1752, that it mentioned, that most of the witnesses, that were present at the marriage of 1741, were dead, whereas two only were dead.

Answer. Lord Anglesey could not be considered as a witness, as the question about the marriage could not arise 'till after his death; and as matters stood before the second marriage, there had been but three witnesses, and two of them were dead, which is the most part; indeed if the second marriage was had without a publick declaration of the former it might have created a suspicion, that there was no prior marriage, and it might be said, that the marriage of 1741 was an afterthought.

It is said, that the declaration of the prior marriage, and the producing the certificate of it at the time of the second marriage, were preconcerted: I admit it, for otherwise the second marriage would be an imprudent act: whereas by producing the certificate, and handing it about that all present might see it, and hear lord Anglesey and the clergyman, who had solemnized the marriage in 1741, acknowledge the same, no bad consequence could be from the second marriage, and an useful purpose might be answered by it, as in case of a contest touching the legitimacy of the children lady Anglesey became a competent witness to prove it.

It was said, that lady Anglesey is interested in point of reputation, in proving the marriage of 1741.

Answer, If she had been called to prove a marriage antecedent to cohabitation; or if another marriage had not been, the observation would have weight, but the facts are otherwise; and as to her reputation, it makes no difference to her, whether the first was four months after the cohabitation, or at a longer distance of time.

It has been said, that lord Anglesey by levying a fine and suffering a common recovery forfeited his estate for life, and destroyed his power of charging a jointure; and that therefore lady Anglesey was interested as to her provision in proving the marriage in 1741. I do not see, how that consequence can follow, if the premises were true, and I also deny the premises; for the estate for life and the power of charging the jointure were created by articles, and the fine and recovery could not have such effect by way of forfeiture upon an equitable estate;

and if the power was gone, she then would testify against her interest in point of provision, as the provision in that event could not arise out of the settled estate, unless lord Anglesey died without a legitimate son.

I have taken notice of all the observations made, so far as they go to affect the credit of lady Anglesey, or the credit of the account given by her; for no observation has been made tending to affect the consistency of her evidence, or to show the least prevarication; if therefore the event of this trial was to depend singly on the testimony of lady Anglesey, corroborated by the now unquestioned evidence, that the Earl, Mr. Neil, Nixon Donovan, and Charles Kavanagh were all at Camolin on the 15th of September 1741, and by the evidence of the earl's bringing Neil in the yacht to Ross, which could be only for the purpose of marrying him, I should hope, there would not be any difficulty in pronouncing the noble lord to be the legitimate son of the late earl. But his legitimacy is far from resting singly upon her testimony. A certificate, signed by Laurence Neil, importing that he married the late earl to Juliana Donovan on the 15th of September 1741, was laid before your lordships; and it was proved by his nephew, that the body of the certificate, and the name Laurence Neil signed to it, was his hand writing, and this hand writing has not been controverted.

We have also proved by two witnesses the hand writing of Nixon Donovan. As this has been considered by the gentlemen on the other side as a material part of the case, and great pains taken to lessen the weight of the evidence to the hand writing of Nixon Donovan, I will mention particularly the nature of the evidence to this fact. Nixon Donovan died under the age of twenty, probably at nineteen; for lady Anglesey says, he was two years older than her, and he died very soon after the marriage, near thirty one years ago; he had not been in a way of life, where many people had opportunities of being acquainted with his hand writing; therefore proof of his hand writing can be only from some of the persons, who were at school with him; and tho' it is said, that there are more than two now living of those, who were at that school, it is rather to be wondered, that there were two, who should at this distance of time be able to give an account of the hand writing of this young man. The account given by Anthony Ryan is

is as satisfactory an account, as can be expected of his hand writing; Ryan had been at school with him a year and a half, partly in 1737, partly in 1738; he had at that time seen him write frequently; he was in the same troop with him, and saw him then write; he had for several years (above fifteen years) a copy book or cypher book, in which was some of the hand writing of Nixon Donovan, and had frequently seen his hand writing in this book. One gentleman expresses a surprize, that Anthony Ryan kept this book so long: but it is usual for people of this sort, when they leave school, to keep their cypher book to refresh their memories as to the common rules of arithmetick, even for the sake of the multiplication table. Another gentleman says, the writing of Nixon Donovan in that book has not been seen by the witness for many years: but this witness made an affidavit nine or ten years ago of the hand writing of Nixon Donovan, at which time his recollection of the hand writing was more recent, and must be stronger; and he not only speaks from his present observation of the hand writing, but from his having seen this very hand writing many years ago; he also was examined as to this hand writing before the lords of Great Britain, and has said, that he was fully satisfied, and believed, when he first saw this paper, and at the subsequent times of his seeing it, that the name, Nixon Donovan, was the hand writing of Nixon Donovan. It was taken notice, that the witness looked at the initials of his name on the certificate. Answer, this was proper to be done by him, as it must confirm his present opinion, that he saw this hand writing many years before, when his recollection must be stronger; he has told you his opinion from his present recollection, and his looking upon the back of the paper, and being from thence able to say he saw this hand writing so many years ago, fortifies his present opinion.

James Darcy was examined to the same matter; he was also at the writing school with Nixon Donovan. The first objection made to him is a curious one, that he says, he went to England to prove the hand writing of Nixon Donovan, and yet had not seen the certificate, before he left Ireland; this rather gives weight to his testimony; and your lordships refused to permit two of the witnesses, intended to be produced as to the hand writing of Charles Kavanagh, to view the certificate in the office, for these reasons,

that if they were acquainted with the hand writing, they would know it at once, when the paper should be produced to them on the floor, and if they were not acquainted with the hand writing, their ignorance of it would be more easily discovered; an expression of this man, that he was astray, has been observed upon; the meaning of that expression is explained by the nature of his testimony; this name, Nixon Donovan, was produced to him as if wrote on a blank paper, all the rest of the writing being covered with clean paper, and he was asked, whether that was the hand writing of Nixon Donovan. The first answer he gave, and to which he adhered, was, it is very like his hand writing; nay, before the paper was undisguised, said, it was as like his hand writing as any thing, he ever saw, and said, he believed it to be his hand writing; but, said the witness, this paper is not like the paper shewn me in London, for there is but one line in this. So that what he meant, by being a stray, was, that he could not account for the different appearance of the paper. This witness was desired to withdraw, and the yeoman usher to take care that no person spoke to him; and the paper during his absence was freed from its disguise, and afterwards shewn to the witness, and then he said, he believed, the name Nixon Donovan, to be the hand writing of Nixon Donovan. He then was asked by one of your lordships, which of the papers produced was most like the hand writing of Nixon Donovan? this was as trying a question, as could be put, especially when it came from one of your lordships, as it implied a difference; his answer was, that he believed, they were the same. So that no man's knowledge of an hand writing was ever more strictly searched into than this man's. The hand writing of Nixon Donovan has been proved by two witnesses, tho' proof by one would be sufficient, as no attempts here to controvert it. In England it was controverted by Elizabeth Smally, who said, it was the hand writing of Cornelius Donovan; here she said, she could not form a belief, whose hand writing it was. If then this is proved to be the hand writing of Nixon Donovan (of which there is no contrary evidence before this house) the establishing that fact puts an end to the cause, as he died in November 1741, and this shews, that the certificate existed before his death. Four witnesses have been examined to the hand writing of Charles Kavanagh, two of whom,

Patrick

Patrick Byrne and William Smith, had not seen the certificate till exhibited on this floor, and were produced as persons well acquainted with his hand writing to give your lordships satisfaction in that particular. Each of those four persons has informed you, that he was well acquainted with Kavanagh's hand writing, and frequently saw him write, and assigned good reasons for his being able to form a judgment of his hand writing; and all of them have said, they verily believe, his name signed as a witness to this certificate to be his hand writing.

But it is said, why did you not produce more to the hand writing of Kavanagh? I answer, that we have gone farther than usual in proving this hand writing, as a doubt was raised in England as to it, owing to the wicked woman Elizabeth Smally, who there said, she believed, it was not his hand writing, and here gave no such evidence. I must observe, that not one person, who was acquainted with the hand writing of Kavanagh, has been produced to say, he believed, that his name to the certificate was not his hand writing, but some exhibits have been produced to a witness who said, he believed, the name Charles Kavanagh, signed to them, was his hand writing, and your lordships are desired to compare the hand writing of Kavanagh to those exhibits with the hand writing to the certificate. The man, to whom the counsel for the claimants have appealed to prove those exhibits, is one of the men, who has proved Kavanagh's hand writing to the certificate; and they would have you believe his evidence as to those exhibits, and not regard it as to the certificate. Comparison of hands by a witness, not acquainted with the person's hand writing, is not in itself legal evidence of the hand writing, where a witness may be had acquainted with the hand writing. If to prove the hand writing of Kavanagh to the certificate we had brought a witness, who said, he had letters of his, and that from a comparison of the name subscribed to the letters with the name subscribed to the certificate, he believed the name to the certificate to be his hand writing, and that witness had not seen him write, this kind of evidence by comparison would not be admitted for us, tho' the letters were admitted to be wrote by him; what constitutes the competency of evidence in this particular, is, the witnesses having seen the man write, and from thence being able to form a judgment or opinion of the hand writing. Indeed where no witness can be produced, who has

seen the man write, there evidence of an inferior degree may be received from necessity, as in cases of commerce to prove the hand writing of a foreign merchant who never was in Ireland. But here the gentlemen on the other side would have your lordships not only receive the inferior evidence without a necessity, but also to decide upon it in contradiction to what the law considers as better and less fallible evidence.

It is not very difficult to make a forged name agree in every stroke with the real hand writing: but it is not by comparing the strokes of a letter, that a witness knows the hand writing; it is by a view of the whole writing. One acquainted with the hand writing of another knows it from the first appearance, not by tracing it stroke by stroke; as you know a man's face without examining the features particularly. The fallibility of the evidence of comparison of hands by a person, not acquainted with the hand writing, appears from the several exhibits produced, no two of which agree in every particular of the writing. Many men write different ways at different times; and Kavanagh's not writing in the same manner always is accounted for by his drinking drams in a morning; and when he drank at night, he had the next day sometimes rheumatick cramps in his hands; it is proved, that he has himself accounted in this way for the difference in his hand writing. But if there was a scheme to forge his hand writing, lord or lady Anglesey could easily have got some of his hand writing, so as to make the strokes of the counterfeit resemble the real hand writing; and it is not to be conceived, that one would attempt to forge the name of a person without having some of the hand writing before him, especially when it could be so easily got.

Thus this certificate is fully proved; the hand writing of Neil not controverted; the counsel on the other side did not even cross examine the witness, who proved it; the hand writing of Nixon Donovan has been proved by two witnesses, and that of Kavanagh by four witnesses; and not a single witness produced, who said, he did not believe the name of any one of them not to be of his hand writing. Besides as against the claimant John Annesley it appears from Mr. Talbot's testimony, that upon the reference upon his petition to the attorney and solicitor general here it was agreed, that Kavanagh's name to the certificate was his hand writing: Will your lordships doubt, if

the question shall come to be decided as between him and the noble viscount, of a fact which he himself has admitted? So far from disputing the hand writing his suggestion before the attorney and solicitor general was, that Kavanagh was an accomplice in the fraud; but no proof was made of any fraud.

An observation was made as to the date of the certificate, that it was the second or third. The space between the word preceding the figures (15) and the word immediately following, shews, there were originally two figures, and there is not the least attempt of a rasure; the writing the letter (d) is a mistake, that very often happens in the writing a date; but the certificate of 1752 removes all doubt. They suppose, the certificate of 1741 was wrote in 1752, and the marriage in 1741 is set forth in the certificate of 1752, and said to have been on the fifteenth of September, and the word *fifteenth* wrote in letters and not in figures; besides Mr. Masterfon has sworn, that Neil declared, he had married them on the *fifteenth* of September 1741; and if this certificate was not wrote at the time, it appears to bear date, Neil might easily have wrote it over again; and if the names of the witnesses were forged, they might have been also wrote over again.

But this paper has not the regular appearance of a deliberate forgery concerted, as evidence upon which high honours and a great estate might at a future distant time depend, but was wrote without deliberation for the satisfaction of a young girl of seventeen, as the marriage was to be kept private for some time.

Now to consider the other evidence in this case. Mr. Simon Kavanagh, a gentleman of undoubted character, and known to be possessed of a very ancient estate, tells you, that in August 1752 he was overtaken on the road by Laurence Neil; that in conversation Neil mentioned, that he had been chaplain to lord Anglesey; which led to the witness's telling him, he heard, that lord Anglesey was soon to be married; at which Neil expressed surprise, as he said, he had married him several years before at Camolin; and said, he would inquire into the cause of his marriage a second time.

It is asked, why did Neil disclose the secret to this gentleman? Answer, it was then no secret, for lord Anglesey had two Months before made a publick acknowledgement of the marriage: then it is objected, why should Neil be surprised at it? Answer, Neil was not surprised at hearing, that the marriage

was declared, but surprised at hearing he was to be married a second time, and said, he would inquire into the cause of it. This testimony is very strong to corroborate the other testimony, as it is a declaration of the prior marriage by Neil, antecedent to the time when the account of the prior marriage is supposed to be concerted; and this is evidence, that did not appear before the lords of Great Britain. Two witnesses produced by the claimants speak as to the character of Mr. Neil; one of them Mr. Tottenham, the uncle of the claimant Richard; the other, Mrs. Smally. Mr. Tottenham said, that Mr. Neil had a bad character, but has assigned no reason for thinking, he deserved it, save that at one time he and this clergyman, and lord Anglesey, and many others, drank together very freely, so that they were all in liquor, and that lord Anglesey desired Neil to get up and dance, which he did; and, as Mr. Tottenham thought, danced indecently. Mr. Tottenham said, he could not recollect, in what year this was, or whether before the marriage of 1752 or not; so that it was impossible for lord Valentia to apply proof to this matter, in case Mr. Tottenham's memory as to the particulars of the transaction may have failed him, as it has done with respect to the time, it happened. But supposing that Mr. Tottenham is not mistaken in his recollection of what passed, the indiscreet act of dancing is to be imputed to his being in liquor; the fault was no more than his being drunk. And so I suppose him to have been from Mr. Tottenham's account, who said, Mr. Neil was in liquor, but not intoxicated, as he considered a person intoxicated to be out of his senses; and if his being in liquor was a fault, Mr. Tottenham shared in it; he as one of the company contributed to this poor clergyman's drinking more, than he should have done; the only difference between him and Mr. Tottenham was, that Mr. Neil had more spirits in his liquor, that he danced, and Mr. Tottenham looked on, for I don't find, that Mr. Tottenham quitted the company.

This is the only act of indiscretion mentioned to affect the credit of this man, and notwithstanding all pains must be supposed to have been taken to prove his indiscretions, a strong presumption in his favour is to be drawn from the claimants not being able to prove a second instance of indiscretion. There is no pretence, that his poverty ever made him

him do a dishonest act, that he ever defrauded, or imposed upon, or belied any man; and tho' drinking too much is not to be justified, yet a man may get very drunk, and yet be very honest. Mrs. Smally has told you, that Mr. Neil had no fault but his poverty, and that he had always the character of a good moral man; and this witness had better opportunity of knowing the character of Mr. Neil, than Mr. Tottenham had; he had married her. The counsel on the other side say, they did not produce her to prove the character of Neil: but she was a witness produced by them, and her opinion, when in favour of lord Valentia, is the stronger, as coming from a witness they had appealed to, especially one inclined to do all disservice to lord Valentia's cause, and possessed with the utmost bitterness against him. Several other witnesses have given an account of the character of Neil; three were in the parish, while he officiated; Mr. Lambert, Mr. King, and doctor Mills, and give him as good a character, as a man can have. The claimant's counsel say, that the account given by these three gentlemen, is of his behaviour during three quarters of a year; but Mr. Lambert's testimony goes to the antecedent part of his

life; for he says, that the rector was very careful in the choice of a curate, and had objected to two or three, and afterwards appointed Neil; which shews, that a previous inquiry was made by the rector as to Neil's behaviour and character, and that they were found to be good. Lady Anglesey gives an account of his proper behaviour and character while chaplain to her husband. There is the testimony likewise of his own cloth in his favour; he was supported for some years by the voluntary contributions of the clergy, who would not have supported him, if he had a bad character. You have also the testimony in his favour of Mr. Masterfon, who is of another religion, not apt to give clergymen of our church good characters if they don't deserve them: so that the good character of Neil is fully established by the testimony of persons of different religions, by that of his parishioners, that of his own cloth, nay by the testimony of an inveterate witness against lord Valentia; besides every man's character *prima facie* is to be taken as good, until the contrary is proved.

Adjourned 'till to morrow.

Die Martis, 26th May, 1772.

Lord RANALAGH in the Chair

Council called in.

Serjeant Dennis proceeds.

My Lords,

I HAVE taken notice of the testimony of lady Anglesey, and the several objections thereto, of the testimony to prove the certificate, and of the objections to it, and of the evidence as to the character of Neil who signed the certificate: I will now mention the substance of the other evidence not yet taken notice of by me, which has been given to corroborate that of lady Anglesey.

First Mr. Masterfon, who is admitted to be a witness of unquestionable credit, said, that from 1748 he was intimate in lord Anglesey's family; that their estates bounded, and from that time he looked on lady Anglesey as married; and in 1749 heard lord An-

glesey say, he was married to her. That about this time it was generally believed by lord Anglesey's friends, that he was married; that he treated her with the same respect as a wife, and in a different manner from that in which he had treated Mrs. Simpson; that he and Mr. Kyan (the earl's two most intimate friends in that country) were sent for to be present at the second marriage; and that lord Anglesey said, he was advised to this, as two of the witnesses to the first were dead; that the certificate of 1741 was on that occasion produced, and inspected by the persons present; and that Mr. Devereux and Mr. Stringer on the production of it to them said, they knew the name of Kavanagh was his hand-writing; these two died before the examination in England, but made affidavits

affidavits before the attorney and solicitor general as to this transaction, and as to Kavanagh's hand-writing. Mr. Masterfon further said, that Neil publickly declared at that time, that, on the day that certificate bore date, he had married lord and lady Anglesey at Camolin; and Mr. Masterfon said, that many persons of character and property were then assembled. Your lordships will observe, that it was an equal chance, that Neil would outlive lord Anglesey, and if so, he must expect to be called on to give evidence on oath as to this marriage; and it cannot be supposed, that he would make so publick a declaration of a fact, which he was not resolved to attest on oath when called upon; for if he should decline to swear to the truth, of what he so publickly declared, that would be an acknowledgment, that he had on a solemn occasion published a falshood to support a fraud; it would be an acknowledgment, that he was an infamous person. Mr. Masterfon further said, that soon after the death of the earl Mr. Annesley of Ballyfax, and his agent Mr. Meheux, applied to him for an account of the transaction in October 1752, and that he gave them then the same account, he has given to your lordships.

The next witness as to the declaration of lord Anglesey was Mr. Edward Butler, admitted to be a gentleman of unquestionable character; he said, he was at Camolin the seventh of April 1752 (six months before the second marriage) on his return from the assizes of Wexford to Dublin; that the earl said, he expected counsellor Fitzgerald to come there to draw his will; that Fitzgerald came, and received instructions from the earl, and was directed to give the draft to the witness in Dublin in order to have copies made thereof to be sent to the earl; that Fitzgerald gave him the draft, which the witness produced, signed by Fitzgerald, and that the witness had three fair copies made, one of them on stamped paper, which he sent to the earl. He said, that when the earl talked of making his will, he told him, he had been married a great while, and it was of no use to keep it secret longer, and that he must settle his affairs. The plain meaning of this was, that he could not settle his affairs without disclosing this marriage, which he had so long kept secret: That it had been of use to keep it secret, but that the reasons, which had induced him to keep it so, did not continue.

The next witness to the declaration of the earl was Mr. Talbot: He says, that in spring 1751 lord Anglesey received a letter from some person of the name of Annesley, who looked on himself as next in succession to some of the honours; that the earl appeared to be displeased, and with some emotion said, that he would disappoint them, and shew them an heir, and a lawful one, and handed the letter to Mr. Talbot to read.

Miss Batt also says, that about 1748, and to 1750, and afterwards, it was the opinion of persons well acquainted with lord Anglesey, and particularly of her father, his then agent, and Mr. Lloyd the curate, that lord and lady Anglesey were married; and that she heard Mr. Lloyd in 1749 upon his return from Camolin say, he was sure, they were married. Mr. Patrick Kavanagh, who was frequently in the earl's family, says, that in 1746 such people, as he conversed with, and were intimate in the family, believed, there was a marriage; but others, who were not intimate, did not believe it, because they had not the same opportunities to make observations, and therefore the reports were various. Which opinions should your lordships most regard? Surely the opinions of those, who had the best opportunity to form a judgment: and they all thought from his behaviour to this lady, that they were married.

Mr. Peree has told you, that the late lord Loftus, at a time when he had a resentment against lady Anglesey on account of giving her interest on a county election against his son, the present lord Ely, said, he considered it as an act of justice to declare, that lord Anglesey before the year 1752 had told him, that he had been married, and that a family cause prevented his making it known. This shews the opinion of that nobleman; his making an affidavit to support lord Valentia's claim to this peerage further shews it; and that he was convinced of the legitimacy of lord Valentia, otherwise he would not have made an affidavit, to impose a bastard on the house, of which he was a member.

Mr. Shepherd French swears, that in June 1752 lady Anglesey went to Ross with lord Anglesey, and that they lodged with Mrs. Napper a woman of character, and his relation; that she was then visited as lady Anglesey, and entertained by the wife of the witness, the clergyman's wife, and the principal people of the town, except Mr. Tottenham

ham and Mrs. Cliff; and it was then believed by those persons, that lord and lady Anglesey were married. Miss Batt confirms this. This was a publick transaction; and Mr. French's account of it might be easily disproved, if not true. Mr. French is called the soap-boiler, but he is not denied to be one of the most opulent inhabitants of the place; and that he and his wife visited, and were visited by, the people of best fashion in that country.

Mr. Edkin's testimony is most material; that lord Anglesey died in February 1761; was taken ill the November before, and kept his room from December; that he was considered as in danger of death from December; that the earl said, he knew, he was dying, and felt something within him, that made him think so; and that during this time, whatever might have been his former conduct, the earl was very religious and devout, and appeared to be a most sincere penitent. That he had divine service frequently performed, and prayers frequently read by him in his bed, and that he joined therein with fervency. When a man is apprehensive of death, thinks every hour to be his last, when he must expect soon to appear before the great judge, who cannot be deceived, he cannot in that situation be supposed to carry on a scene of imposition: And yet during this time lord Anglesey spoke of lady Anglesey constantly as his wife, and of the children as legitimate. This kind of evidence is admitted even in cases of life. Upon a trial for murder what the wounded person in a dying way says, tho' not upon oath, is admitted as evidence to affect the life of the prisoner, because it is not supposed, he will at that time declare a falsehood, or that he will dye with a lie in his mouth.

The part of the evidence, I shall next take notice of, is, that in September 1750 Mr. Annesley of Ballyfax, who was then next in succession in case of the earl's dying without a son (and in whose place the claimant John is) was himself apprehensive, there was a marriage; he said, he suspected, there was a marriage, or that a marriage would be claimed; so that this was not a marriage first set up in 1752, as is alledged by the claimants. It appears, that Mr. John Annesley in 1750 expected, a marriage would be claimed, and that he was endeavouring to get evidence to encounter such a claim; and it appears, that he did not think lightly of it; for his expression was, that he would rather have the receipt signed Juliana Donovan than the

contents of the bond; he would rather have one piece of evidence than 7 or 800*l*.

The evidence, I shall next take notice of, came from a witness produced on the other side, Mr. Tottenham; he said, that about two months before the publick marriage lord Anglesey asked him, why his wife did not visit lady Anglesey, and said, he had been married to her several years, but there was a reason, why he did not disclose it. Mr. Tottenham answered, that his wife would wait on her ladyship, as soon as the earl thought proper to make it publick. Lord Anglesey afterwards told him, that for the satisfaction of the publick he would marry his lady again; and Mr. Tottenham says, that after the publick marriage Mrs. Tottenham waited upon her ladyship, continued to do so, and that they often dined at each others houses: This shews, that Mr. and Mrs. Tottenham then believed, there had been a prior marriage; otherwise would she immediately cultivate an intimacy, or would he suffer her to cultivate an intimacy, with a woman who had lived eleven years in a state of whoredom? Mrs. Tottenham might have paid a visit of ceremony upon the marriage; but surely would not do more. That Mr. Tottenham was of the same opinion till lately, appears from his making two affidavits, one to support the petition of this noble viscount, that was referred to the attorney and solicitor general of this kingdom, and the other to support his petition that was referred to the attorney general of England. The first of these affidavits he settled the draft of; and there was an interval of several years between the making the two affidavits: Those petitions stated, that the noble lord, then the claimant, was the legitimate son of the late earl, and as such intitled to his honours. The making an affidavit was a voluntary act, and intended as part of the evidence to found a report in favour of the legitimacy of this noble lord: Mr. Tottenham will not say, that he intended to deceive the attorney and solicitor general of this kingdom, and afterwards to deceive the attorney general of England, to make them believe what he did not believe himself, or to make them think he was of one opinion, when he really was of a different opinion, or in any wise by his affidavits to induce them to report contrary to the truth. I am convinced, that at the several times of making these affidavits Mr. Tottenham meant to give true information to the persons, before whom the affidavits were

laid, and to induce them to form an opinion agreeable to his own in favour of the noble lord, whose legitimacy was the only matter in controversy.

A letter was produced to Mr. Tottenham, which he admits to have been written by him to lady Anglesey after my lord's death. Mr. Tottenham said, he could not recollect the time, when he wrote it, or on what occasion he wrote it. I think, the occasion of writing it is plainly to be collected from the letter, and from what has appeared before your lordships; for it has appeared, that on the reference before the attorney and solicitor general of this kingdom there were sets of affidavits made at different times on behalf of the several contending parties; and this letter must have been written on the occasion of laying one of these sets of affidavits before the attorney and solicitor general. Mr. Tottenham does not mention any other occasion, nor does he deny, that the letter referred to the contest about the titles and honours claimed by lord Valentia; nor is it pretended, that there was any contest, in which affidavits were made, that could be said to give disturbance to lady Anglesey and the family of the late earl, save that contest about the peerage, in which her first marriage and the legitimacy of the children of the late earl were drawn in question. The words of the letter are these: "I am concerned to find some *new* attempts by *various affidavits* to give your ladyship further disturbance; and sincerely wish, you may effectually and speedily overthrow every person, that means disturbance to you or the family of my late Friend. Mrs. Tottenham joins in compliments to you and the young ladies."

If then this letter referred to affidavits made on the reference concerning the peerage, it shews, that Mr. Tottenham's opinion at the time of writing it was, that lord Valentia was legitimate, else why sincerely wish, that the adversary should be overthrown in the contest, to which that letter referred: Mr. Tottenham surely could not sincerely wish success to the cause, that was not right, or an overthrow to the cause that was just. If his opinion has been really since changed, no reason for that change of opinion has appeared: Nothing has happened since the writing that letter, or making his affidavits, to account in any wise for such change of opinion, save that one of the claimants has since been married to his niece.

The draft of the will of the late earl, prepared by his directions in April 1752, and his wills executed in 1754 and 1759, have been laid before your lordships; in all which he calls this lady his wife, and makes a provision for her in bar of dower, and in all which he distinguishes between his illegitimate children, and those who were not so: The claimant Richard, and his children by Mrs. Simpson and Glover, he expressly calls his natural children; and this noble lord and his sisters he mentions without that description.

Besides from the time of this publick marriage the reputation was, that the noble viscount was legitimate, he was always since called lord Annesley; and was called so at school by direction of the earl (as appears by the testimony of Lloyd a witness for the claimant); was admitted free of Wexford by that description; was called so by Mr. Tottenham himself in a letter, written when he was looking out for a tutor proper for this young nobleman. Nay Mr. Fielding, the only person who has disputed the reputation since the publick marriage, admits, that he called him lord Annesley: So that from the time of the publick marriage to the death of the late earl (as Fielding's testimony cannot, I think, receive credit) the noble viscount appears to have been universally called, considered, and treated as lord Annesley, and is admitted to have been educated as the son, who was to succeed his father in the enjoyment of the honours and estate of the family.

Now to consider the testimony upon which the claimants say, the noble lord is to be degraded and declared illegitimate.

First witness produced was Mr. Stopford Fielding, whose brother-in-law is married to one of the daughters of Mrs. Simpson, and one of the promoters of the opposition given to lord Valentia. He says, that five or six years before 1752 lord Anglesey asked him, had he seen his new service of plate; he said, he had not; and lord Anglesey called for July, and desired her to have the plate brought into the hall; and then lord Anglesey said to Fielding, you see, I have not put my crest on it, for I intend it for July, and said nothing else. This was a very curious exhibition of the plate to this gentleman for the purpose of telling him, that his crest was not on it, and that he intended it for July: But suppose this true, it shews, that lord Anglesey considered this lady at that time as his wife. This plate did not consist of a few tea-spoons, but a service

a service of three dozen plates and dishes: This could not be proper or intended for a mistress, but was proper to be used by a countess. As to the not putting the husband's crest on the plate, when plate is intended as a present to a wife, it is not usual to put the husband's crest upon it; that would be rather a mark of its not being a present: therefore this part of the witness's story proves the contrary, of what it was intended to prove. But now I come to take notice of a most extraordinary piece of evidence: This gentleman says, that in 1757 (five years after the publick marriage; and when all the other witnesses on both sides admit the noble viscount was called lord Annesley by every body, and that it was the avowed intention of the late earl, that he should be considered as his legitimate son; and he had so called him in his will) lord Anglesey desired the witness to ask Mr. Stopford, if he would be guardian to his son, for he was loath to ask him, as the son was a bastard; that the witness did ask Mr. Stopford, and he said, he would, and made no objection. This witness having sworn in England, as lord Valentia's council were instructed, that it surprised him and Mr. Stopford, that Lord Anglesey should call his son a bastard, he was asked, whether it did not surprise him, when lord Anglesey said his son was a bastard? he answered, that it did not surprise him or Mr. Stopford. He was then asked, what answer he gave to that question in England; he answered, he could not tell. He was then asked, whether he had answered it in the affirmative or negative? he answered, he could not say; which in effect was saying, he could not tell, whether he answered the question truly or not in England; so that the improbability of this witness's story destroys it; and that person ought not to be credited, who can't tell, whether he swore the truth or not upon a former examination. But if this story true, as Mr. Stopford out lived lord Anglesey, and had consented without any objection to be guardian to the son, why was he not appointed? No reason assigned for his not being appointed. This witness has said, that Mr. Stopford, who was afterwards lord Courtown, died only two years ago, after the time lord Valentia took his seat in this house as the legitimate son of his father. Is it probable, that lord Courtown would suffer a man, declared a bastard by his father, to take a seat in this most respectable house, of which he was himself a member, without mentioning

this declaration of the father to any person? Fielding said, that lord Courtown and he were informed of the inquiry before the attorney and solicitor general as to the legitimacy of lord Valentia; and that he and lord Courtown were then in the county of Wexford, and every day saw each other. He was thereupon asked, whether, during that time he had taken notice of this remarkable message to lord Courtown, or lord Courtown had taken notice of it to him? He answered, that neither of them had mentioned this matter to the other, nor does he recollect, that he mentioned this matter till his examination in England; so that notwithstanding the connection between this witness and the sister of the prime engineer, Mrs. Dubois, this material evidence is kept secret for above thirteen years. Miss Batt says, that in spring 1768 Mr. Fielding and his father-in-law went to Ross to inquire into a material transaction, the time of lord Anglesey's landing from Wales: This was a year and a half before the last report of the attorney general of England, yet Mr. Fielding made no affidavit on that occasion. It is unaccountable, that he, who, as miss Batt proved, was endeavouring to get evidence from others to serve the purpose of Mrs. Dubois, whose petition had been referred to the attorney general, should conceal the evidence, he could himself give. Besides this gentleman admits, that after this supposed declaration of the late earl, that his son was a bastard, he addressed the son by the name of lord Annesley.

The next witness, I shall take notice of, is Elizabeth Elton, or Smally, the only one produced by Mr. Annesley of Ballyfax against the noble Viscount. Notwithstanding the concert between the agents for the different claimants against his lordship the contention between them was observable in one respect, who should have the honour of calling Mr. Fielding and Mrs. Smally; and it was settled at last, that each of them should call one. I will not repeat the incredible stories, this woman has related, as the counsel for Mr. Annesley, who produced her, allow, she ought not to receive credit. All, they wish, is, that her appearance may have no influence one way or the other: But there I must differ; they knew, that this woman had sworn falsely in England to several particulars, and therefore examined her only as to one of the matters, to which she had been examined in England. The inference, I draw from the producing this woman, is, that no man would produce a witness

witness, whom he had reason to believe infamous, but for the chance of supporting a very desperate cause, he would not resort to the testimony of such a person, if he thought, he could do without it. Where a witness is produced to tell a false story to impose on a court of justice, the general presumption is, that it is framed in concert with the person producing the witness, and who would endeavour to avail himself of that story: but I must do Mr. Annesley of Ballysax the justice to declare, I do not believe, he was in the least privy to the corruption of this woman. No, my lords, her stories were probably framed in concert with the person, on whose letter she went to England, who set on foot and conducted the opposition given in England to the claim of the noble lord, and whose husband has appeared at your lordships bar as an assistant in conducting the petitions against the noble lord. It was on the petition of Mrs. Dubois, that the second order of reference to the attorney general of England was made, and the reference to the house of lords there was had. She was the person, who, as I am instructed, imposed on a noble baron of this kingdom to take a part in the opposition to my noble client. Mrs. Dubois was the person, who produced in England Mr. Fielding, Mrs. Smally, and Ruth Coxen, two of whom are produced here: What must your lordships think of Ruth Coxen, when the agents for the claimants thought it more prudent to venture to produce Smally than to produce her. Any person, who had not attended the examination of the witnesses on this trial, and who heard my summing up the evidence, would imagine, I omitted taking notice of the material part of the testimony against the legitimacy of the noble viscount; and that I only took notice of that part of the testimony, that I need not have troubled myself about, as it condemned itself, and appeared improbable on the stating it; but the only witnesses produced as against the legitimacy of the noble viscount (besides Mr. Lloyd, who said nothing material) were those, whose testimony I have taken notice of. If I have omitted any material parts of the testimony of their witnesses, the gentlemen on the other side will put me in mind of it.

The counsel for Mr. John Annesley in observing on the evidence said, he would begin with the case of Richard Annesley as the most serious. Your lordships recollect the manner, in which he treated this serious

case; scarcely asked a question of the witnesses produced to support it, and did not produce one witness against it: But the witnesses for the noble viscount, whose case he makes light of, are cross-examined with the greatest strictness. From this specimen, from what the learned council for John Annesley set out with mentioning, your lordships might have formed some opinion, whether the gentleman meant to be serious in his other observations.

I will now take notice of the remaining objections. It was said, that lady Anglesey between 1741 and 1752 signed receipts and letters by the name *Juliana Donovan*. I answer, that corresponds with the intention to keep the marriage secret; nothing more is to be inferred from thence, than that the marriage was not made publick; for if she was to sign *Anglesey*, that would disclose the marriage. But it is said, that Charles Kavanagh is a witness to a receipt, signed by her in 1746; and it is asked, why did he, if he knew of the marriage, witness a receipt, signed by her with her maiden name? I answer, the receipt was given to James White, who was receiver to the earl, and also receiver to Charles Annesley as to his third: the person, who calls another to witness a receipt, is generally the person, who takes the receipt. If Kavanagh had declined to witness the receipt, a reason would be expected to be assigned for his refusal; and he could not refuse to witness that receipt without disclosing the secret. But supposing lady Anglesey had the choice of a witness, Kavanagh was the most eligible, as his testimony could not hurt her; for he would tell all, he knew, and consequently must prove her marriage.

Another objection is, that bonds were taken in her name, which could be only to secure a provision for her, lest the creditors of lord Anglesey should interfere. I answer, she swears, that no bond was taken with her consent or knowledge; that she knew not of the bond of Francis Annesley, till she was called to sign a receipt thereon; and there is no evidence, that contradicts her. It is observable, that this bond, and the receipt upon which Mr. Francis Annesley put such a value, have not been exhibited, lest we should know the witnesses thereto, and might question them, whether the bond was taken with her consent or not. The probability is, that something to defeat their purpose would appear by the production of the bond and receipt.

It

It is asked, why did lord Anglesey take this bond in any other name than his own? It is impossible to account with certainty for every action of a very singular man; but a probable conjecture may be formed, from what has been done by others in the like cases. Mr. Annesley of Ballyfax was his relation, and when he lent him this money, he might pretend, it belonged to another, that he might with a better grace, and without breaking with a relation, press for it. It is not like lending money to a stranger. This I mention only as a probable conjecture. Your lordships will judge, whether my conjecture, or that of the council of John Annesley, is more probable; he supposes, that lord Anglesey was in distress, and might mean to secure something for her from his creditors, and therefore took this bond in her name. This bond was taken in 1749 after the death of Charles Annesley, when, if the earl had no legitimate son, he had the absolute dominion over the estate, at least over two thirds, and could make any provision out of it for this lady; and if he had taken the bond in his own name, his creditors could not get at it by any legal execution.

It is next objected, that she signed a warrant of attorney to acknowledge satisfaction on the judgment obtained against Francis Annesley; but the fact is not proved; they offered an affidavit, or a copy of an affidavit, of Mr. Ians to prove it, and I proposed not to object to it, if they would not object to the reading another affidavit of Ians, or an affidavit of lord Loftus; and they then withdrew the affidavit, which they had offered, so that the fact is not proved: But if it was, nothing more is to be inferred from it, than from her signing a receipt. There is no difference as to lady Anglesey between signing a warrant of attorney to acknowledge satisfaction on the judgment, and signing a receipt for the money. As to her signing a discharge for the debt (be it in either form, that of a warrant or a bare receipt) the only witnesses as to that fact were lady Anglesey and Mr. Butler; and the account of each witness must be taken together, and not part of it taken, and the other part disregarded. Lady Anglesey says, she refused to sign this receipt when required, as it was a receipt to be given to Mr. Annesley of Ballyfax, who might make use of it against her; that Ians was sent twice or thrice to prevail on her; that at last lord Anglesey went to her, and she was brought down in tears, and in that con-

dition was made to sign it. Mr. Butler mentioned this reluctance, the sending up Ians, and then lord Anglesey's going up, and bringing her down in tears; and that as she was signing it at the table, she muttered the words, *cruel treatment*. Mr. Annesley's counsel would suppose, her uneasiness was on account of parting with this bond, of which she never had the possession. If that was the cause of her tears, she would have mentioned it at the time; nothing could have hindered her from assigning that cause: She would then have said to lord Anglesey, give me a bond of your own for the like sum; give me another security in the place of that of Francis Annesley: But nothing of that kind was said, nor indeed is it to be conceived, that the earl should in this manner against her consent dispose of money, that he meant as a provision for her, without giving an equivalent. Mr. Butler, who was present at the transaction, and can form a better judgment as to the cause of her uneasiness than a person not present, says, it did not appear to him, nor did he believe, that her reluctance was on account of her parting with the bond; her reluctance must have proceeded from some cause, that she could not mention before Francis Annesley or Mr. Butler; her behaviour shews, she apprehended a consequence, which she was not at liberty to mention; that could be only on account of the marriage, which she was under an obligation not to disclose. This part of the evidence is a strong confirmation of the case stated for lord Valentia, and proved by lady Anglesey, "that there was an antecedent marriage had under an obligation of secrecy;" her behaviour on that occasion cannot otherwise be accounted for.

This leads me to consider another observation, that lady Anglesey must be supposed to have had great influence over lord Anglesey, and to have directed his actions. That observation the council for the claimants were often forced to recur to; but what happened at this time? his obliging her to sign this discharge shews clearly the contrary; but as to improper influence, there is no reason to suppose it; he was allowed by all to be a man of strong passions, directed only by his own will; that he was so, appeared in many parts of this case. It is said, that Mr. Butler was by her influence employed to draw the will of 1752 instead of Mark Whyte. Mr. Butler, tho' in the house with lady Anglesey, says, he never

spoke to her a single word before the will was drawn, and mentions the way, in which he happened to be engaged in this will; and it does not appear, that lady Anglesey had the least share in preparing or giving instructions for it. But that Mr. Butler was not an attorney of this lady's chusing, appears from her employing Mark Whyte after her husband's death in the conduct of her son's affairs, and not employing Butler in any. The marriage of 1752 is mentioned as another instance of her influence; and it is said, that marriage was had in order to qualify her to take a jointure under the articles of 1737; I answer, there is no evidence to support this observation; and that could not be the reason for the marriage of 1752; for in case of his dying without legitimate issue, he had power over the whole estate, and there was no occasion to take this method of making a provision for her.

Another argument mentioned to shew her influence is, that the last will is more beneficial to her than the first, which was in 1752; by the will of 1752 he gave her a jointure of 1000*l.* a year and all his personal estate for life; by the last he has not increased the jointure, but has given the personal estate to her absolutely; and that is the only difference, tho' there was a distance of seven years between the two wills, and he was in a much better way of providing for a wife at the time of making the last will than seven years before. And it seems an extraordinary reason to support a charge against a wife of improper influence over the husband, that he increased his bounty to her, as his property increased; but that she had not such influence, appears from this, he had power to appoint a jointure of 2000*l.* a year, and never appointed more than 1000*l.* a year, and she never got him to make an appointment by deed.

Another observation was, that lord Anglesey's letters to her are not produced; that is easily accounted for; the only times of absence were two, and those a great many years before his death; the first was from the winter of 1741 to August 1743, about a year and a half; at that time she was very young, between her age of seventeen and nineteen; she admitted, he did not direct to the countess of Anglesey, because that would be disclosing the marriage; he did not sign himself husband, as the letters might get into the hands of another. She says, they were wrote in an affectionate manner; where then was

the use in preserving those letters, if not directed to her as countess of Anglesey, and signed by him as husband? The other time of absence was very short, about five or six weeks in the year 1746; at all other times they were together, went constantly from house to house. The letters, wrote when they were under a necessity to conceal the marriage, must be supposed to be written with some caution: No use could be made for her of those letters, and no imputation lies against her for not keeping them. And considering her youth and the distance of time, it cannot be supposed, she should have kept letters, that did not on the face of them appear material to her. But if lord and lady Anglesey had agreed in 1752 to frame a story of a prior marriage, he might easily have framed a set of letters to be produced after his death. A question is asked, why did she, if married, suffer Richard, a natural son, to be brought to the house of Camolin? Many of the objections do not appear to me as deserving a serious answer: but this is a numerous assembly, and I know not, how any particular objection may strike another person, that may appear light to me, which may make some impression on the mind of another, and therefore I take notice of every objection. Richard was brought to Camolin from England by lord Anglesey, before she knew any thing of the matter; when he was brought there, she could not with propriety object to his entering the house, at a time when she could not exert the authority of a wife. But supposing she was the declared wife, it would be improper in her, who had been married without a fortune, and under the circumstances she was married, to object to her husband's bringing a boy of that age into the house: There was no danger of contamination from the child. If indeed he had brought Ann Salkeld there, or if lady Anglesey's daughters were grown up, and he had brought grown up natural daughters to keep company with them, it would be extraordinary. An observation of a different tendency is to be drawn from this act of lord Anglesey in bringing the boy of three years old; he brought him, but did not bring any of the natural daughters, he left them all at Mill Hill. There could be no hurt in rearing a natural son for a few years with his legitimate son, especially as he intended to educate the natural son as a gentleman; and as to putting the two boys to the same school, and their receiving the

the same treatment there, as neither of them was publickly acknowledged as legitimate, that both should receive apparently the same treatment at school, was consistent with lord Anglesey's scheme; 'till he publickly acknowledged his marriage; but from the time of publickly acknowledging the marriage the treatment was different; lord Annesley was taken away and sent to another place.

The day of closing the evidence Mr. Kelly, counsel for Mr. John Annesley, raised your lordships expectation to hear the next day (as he said) a decisive argument, arising from the articles of 1737; *parturiunt montes*. The next day came, and the learned gentleman, who never omits a material observation for his clients, said not a word of those articles in an argument of four hours. Upon consideration of these articles the evening before he argued, I presume, he perceived, that arguments might be drawn from them not favourable to his client; and therefore he prudently declined to make further mention of them. I suppose the use, the learned gentleman intended to have made of these articles, was, that it appeared thereby, that lord Anglesey, in case he had a legitimate son, had not power by his will to dispose of his whole estate; and from his disposing of the whole estate the learned gentleman would infer, that lord Anglesey considered himself as not having a legitimate son. But many instances have been, where a father being seized of an estate, which he had a dominion over, and of a settled estate which his eldest son had a right to enjoy after the father's death independent of his will, has given the estate, which he had dominion over, to the eldest son, and devised the settled estate to a younger son; and the settled estate has been enjoyed under the will; for the rule of equity is, that one, who chuses to take benefit by a will, must abide by it in the whole. Now here lord Anglesey notwithstanding the articles, and his having a legitimate son, had dominion over the English estate and the Camolin estate; and at least apprehended, he had a right to the third of the estate, that was limited by the articles to Charles Annesley; and he had power to charge the rest of the estate with a jointure of 2000 *l.* a year, and a sum of 25000 *l.* for any purposes; and the limitation of the estates by the will is to the present lord for his life, with remainders in tail to his sons; and with very large powers to the present lord to charge a jointure of 2000 *l.* a year for a wife, and 20000 *l.* for younger children; and the bene-

fits, which the present lord derives under the will, exceed in value the difference between an estate tail in the settled part and an estate for life therein, attended with such powers as are given by the will and with remainders to his sons in tail. But see what an argument these articles furnish for keeping the marriage secret during the life of Charles Annesley; the Earl and Charles Annesley were made thereby each tenant for his life, if both died without issue male; remainder in fee of two parts of the estate to the earl, and of the other third remainder in tail to the earl, with a remainder in fee to Charles Annesley; so that as Charles had no issue, the earl's acknowledging a marriage with a fruitful woman must destroy his credit then but low as to borrowing money; and as to his conduct in 1752 those articles shew, that the acknowledgement of a legitimate son was against his own interest; it was setting up a bar to his dominion over the settled estate. This not a case, where an estate would go out of the family, if there was not a legitimate son; for tho' the noble viscount was illegitimate, his father could have devised the estate to him; so that the acknowledging of his legitimacy could only operate to give him the title of honour: and it cannot be supposed, that in order to give a title to one of two illegitimate sons he would deprive himself of the power over a very considerable estate.

It has been observed, that the certificate of 1752 was not signed by Neil. I answer, it was not necessary, as Neil had signed the certificate of 1741.

Some observations have been made upon the wills of the late earl with intent to induce your lordships to believe, that he did consider his son Arthur as illegitimate. I shall therefore state the parts of them, which shew the reverse. By the will of May 1752, made six months before the second marriage, he devises to his wife, *Juliana Donovan countess of Anglesey*, 1000 *l.* a year, and his personal estate for life; and after her death among his children by her, *in lieu of dower and thirds*. He takes notice of his daughters by Simpson and Glover, and calls them *natural daughters*; and devises a remainder in his estate to Richard by the description of *his natural son Richard*, by *Mrs. Salkeld*; but the devise to the present lord is by description of his son Arthur without the addition of *natural*; and the sisters of the present lord are also named without that addition; so that he

he plainly distinguished in the description of his children between the legitimate and illegitimate; and that he considered the sisters of the present lord as legitimate (one of whom is elder than the present lord) further appears by his limiting a remainder in his real estate to them and their heirs male, *they taking the name of Annesley, and the family arms.* But it is said, he directs his son Arthur to follow the profession of the law; and that the son could not in pursuance of the will follow that profession, as the will was not to take place 'till after his father's death, and then he would be earl of Anglesey, and a judge in the highest court of justice. The words of the will have been mistaken: he does not direct his son to follow the profession of the law, but desires, that he may be *entered in the temple*; and recommends to the guardians to *educate him in a learned way, and to apply him to the study of the law.* He could not mean, if there was a peerage, that a son, who was to be in possession of 7000*l.* a year, should get an addition to his income, by practising at the bar; he meant only, that his son should study the laws of his country as part of his learning and education: which, I submit to your lordships better judgment, is a proper study for every young man, who is to inherit such an estate, as it must make him more able to serve his country, let him have the honour of a seat in either house of parliament, and was the more proper for a person, who was to sit as a judge in the highest court of judicature. It was a more reasonable direction for the education of a young noble man than to send him to travel to Italy. But this desire, that his son should endeavour to know more law, than he did himself, was natural in the earl, who had suffered by his ignorance of the law; who, on account of that ignorance had entered into an agreement with Charles Annesley, by which he gave up a third part of his estate: It is a common saying, that a burnt person dreads the fire. This nobleman had felt the fire, and wished to keep his son out of it. He had actually lost a third of his estate by his ignorance of the law, and wished, his son should not be brought up in the same ignorance. He might learn much at the temple, and could receive no injury by reading law there. He does not direct, that this son should be called to the bar; words frequent in wills, when law is intended as a profession to be followed for a livelihood. But this observation came naturally into the mind of the

learned gentleman, who has made so much money by the reading law; he thought no man should read it but for the same lucrative purpose. If the observation means any thing, it is to shew by this strange construction, that lord Anglesey at the time of making this will did not consider the present lord as legitimate. Can any person, who reads the will, doubt, that at the time of making it he meant, that the present lord and his sisters should be considered as legitimate, and their mother as his wife? He calls the mother his wife, and no other marriage before that time is alledged than that in 1741.

Another observation was made from these words in the will of April 1759, "Whereas
"before my marriage with my said wife I
"had several natural children by different
"women, during the time of my being separate
"from my first wife, Ann Prust, that is to
"say, by Mrs. Simpson Dorothea Annesley,
"Caroline Annesley, and Elizabeth Annesley;
"and by Mrs. Ann Salkeld I had one
"natural son called Richard Annesley;
"and by Mary Glover I had one natural
"daughter named Ann Annesley." And it was said, that by these words it appears, the earl considered his son Richard as born before the marriage with the present countess; and as Richard was born in 1743, he could not consider himself as having been married in 1741. Now it appears, that the words in the first part of this clause, *before my marriage with my present wife*, are confined by the words *during my separation from Ann Prust*; and he meant here to refer only to children born during the separation; which separation ended by her death in August 1741; he therefore could not mean, that he had Richard during the separation: but in the first part of this clause he takes notice, that he had several natural children by different women during his living separate from his first wife; and he enumerates such of them, as were living at making the will, and there that part of the clause ends. And then he recites, that by Ann Salkeld he had a son Richard, which recital is not connected with the former, but has the verb *had* belonging to it distinctly. But if there was reason to doubt as to the testator's meaning in this clause taken singly, the other parts of the will shew clearly, that he considered Richard as born after his marriage with the present lady; for he expressly recites in *the same will*, that since his marriage with her he had several children by her; and names the present

present lord and his sisters, one of whom, lady Richarda, was born before Richard Anglesey.

Now permit me to make one observation upon part of this will. The earl devises to the present lord the estate, and, if he should have another son by the present lady, bequeaths him but 5000*l.* so that upon the supposition of the noble viscount's being illegitimate, the father must be supposed to intend to cut out the future son, unquestionably legitimate, and who would be intitled to the honours, from so much of the estate as he could deprive him of, and to give it to an illegitimate son.

The last observation was from the determination of the lords of Great Britain. I admit, that if the evidence before that very respectable house and before your lordships was exactly the same, if you were to pronounce judgment on the same state of evidence, their determination ought to have great weight, though it ought not to conclude. Your lordships sit here as on a jury, are to declare your opinion according to your own judgments and upon your own honours; and if you happen to differ in opinion with others, you are to follow your own. The difference in numbers there was small; on which side the difference in the weight of the opinions was, I shall not presume to say. But there is a most material difference between the evidence in England and here; there was a contrariety of evidence as to the names Nixon Donovan and Charles Kavanagh, signed to the certificate, being of their hand writings. Here there is none; for all the witnesses, who have been here examined as to their hand writings, agree in saying, they believe the names to be of their respective hand writings: not one has said the contrary: it was otherwise there. Here has been a most material and uncontroverted piece of evidence, strongly corroborating the testimony of lady Anglesey, "*that Neil came over in the yacht, landed at Ross with lord Anglesey, and went with him to Camolin in September 1741*;" and there has not been any attempt to account for lord Anglesey's bringing Neil to Camolin at that time but in order to marry him to Miss Donovan. Three witnesses were produced there, Smally, Fielding, and Ruth Coxen; there Smally the principal did not contradict herself; here her testimony is given up. Indeed Fielding's testimony appeared equally improbable there, as it does here. Ruth Coxen is

not produced here, nor has any attempt been made to account for the not producing her; and from the not producing Coxen (who must be supposed to be in their power, as they have not accounted for her absence) it appears, that the gentlemen concerned for the claimants thought, she was less likely to gain credit even than Smally. Here also very material evidence has been given by gentlemen of acknowledged integrity and property, Mr. Simon Kavanagh and Mr. Butler, who were not produced in England. The great difference between the evidence appearing to your lordships, and that laid before the lords of Great Britain, shews the danger of trying facts out of the kingdom, where they happen; when the trial is in another country, where the characters of witnesses are not known, and where persons to contradict tutored witnesses cannot have timely notice to attend, nor can attend without difficulty, there is an encouragement to attempt an imposition; and I am not without hopes, that the lords, who have been imposed on by witnesses, the principal of whom is acknowledged to be infamous, will wish for an opportunity to reconsider the merits of this case, and from their known integrity, and the superior understandings of some of their lordships, I am persuaded, that if the evidence shall appear to them in the light, it now appears to your lordships, any opinion, they formed on a different state of evidence, will not occasion the least difficulty to their pronouncing on further information in favour of the noble viscount's title to the English honours, which he claimed.

It has been said by Mr. Kelly, that the receipt signed Juliana Donovan was not before the lords of Great Britain; but tho' it was not, there was evidence of the same import and equally strong; for lady Anglesey acknowledged, that after the marriage of 1741 she had signed receipts and letters by her maiden name; this was the only piece of evidence produced here against the title of the noble viscount, that did not appear in England.

Therefore as the proofs on the part of the noble viscount are clear and consistent, no material part of their evidence, that I recollect, denied by any witness who deserves credit, I cannot doubt of your lordships determining in favour of the noble viscount.

I should not take notice of the evidence given as to the supposed marriage of the late earl with Ann Salkeld, if that marriage

might not be mentioned as a circumstance to shew the improbability of a marriage the year before; for supposing that lord Anglesey married Ann Salkeld in 1742, that cannot affect the title of the noble lord, if his mother was married in 1741. And tho' it is very improbable, that a man of a regular life should marry a second wife living the first, the improbability ceases, when the irregular and immoral way of life of lord Anglesey is confessed on all sides, and when it is considered, that he had done the like before in the life time of Ann Prust; but least the supposition of a marriage with Ann Salkeld should have any effect upon the case of my client, it is my duty to take notice of the story of the pretended marriage, which appears to be a fiction, attempted to be realised by improbable swearing without any circumstance to corroborate it.

Two marriages are pretended to be had between the earl and Ann Salkeld, the one in May, the other in August 1742. No evidence has been attempted of the marriage in May, tho' said to be solemnized at Keith's Chappel, May Fair: but to prove the other two women are produced, Catherine Buntin and Elizabeth Knight: not to repeat particulars, they swear to an accidental performance of a ceremony at the earl's house in London immediately after dinner, before the ladies rose from table; tho' several are pretended to have been present, none of them are living but the two witnesses: no account is given of the supposed clergyman, or of what country he was, or that such a clergyman existed, save by the two women, who say, they believe, his name was Goold; and Mr. Patrick Kavanagh, who was very intimate with the earl and in his family, says, he never heard of a clergyman of the name of Goold. The pretended occasion of the marriage is, that the earl was pleased at the thoughts of his having a son; Mr. Hay said, he thought, he would be tired of it by that time; the earl said, he would do it over again the next day; and Hay said, he might do it as well then. How his bragging that his wife was with child should lead to a second marriage *four months after a former*, is difficult to be conceived, and no reason is assigned for it. This marriage is said to be publick, March 1742-3, Richard Annesley born, and great rejoicings said to have been at his birth; the mother and child are said to have been introduced to all companies, whether ladies or not; so said Elinor Fetherston: after all this,

without the least provocation given by the mother, or any quarrel between her and the earl, he leaves London in August 1743, takes away the coach and servants, leaves an one horse chaise, and a man called major Carrington is to hire a servant for her; the mother and child are sent to Mill hill (nine or ten miles from London) and the child is afterwards removed to Carrington's; at Mill Hill the company provided for this acknowledged wife are four natural daughters of the husband, three of them by Simpson, and the other by Glover; and they all messed together in this small house; (a most sudden change to this countess from a residence in Bond Street, attended by a coach and six.) July 1746 the earl goes to London to attend the trial of the rebel lords. This supposed wife, as her sister says, was then in London with the sister and sister's husband, who introduced her to the intimacy of the earl; and it does not appear, that the earl saw her while he was this time in London; on the contrary, it is admitted, there was no cohabitation after August 1743, nor is any reason assigned by these witnesses for their not cohabiting afterwards. The earl brings the child to Ireland, the pretended wife is left behind, neither habitation pretended to be got or provision made for her; she lives 'till 1749 without going to the supposed husband; nor does it appear, that there was further intercourse between them.

The child is brought as illegitimate to Ireland; and his own witnesses, Mr. Tottenham and others, admit, that from his being brought to Ireland he was reputed by every body to be illegitimate. In the year 1772, twenty three years after the death of his mother, and eleven years after his father's death, after a contest for many years about the title of Valentia, with which the present claimant Richard was acquainted from the commencement of it, and after offering to make an affidavit to support the claim of the noble viscount, a marriage is first set up as had between the earl and the mother of Richard, and he then for the first time pretends to be legitimate.

It is not pretended, that Richard had not early information of his mother; on the contrary he was called some times by her name; and he is described in the earl's will as his son by Ann Salkeld; and it was notorious, who his mother was. Catherine Buntin, his aunt, attempts to account for not disclosing to Richard the marriage of his mother by saying,

saying, that she did not 'till two years ago know, that he was living, tho' she made inquiries, and applied (as she says) seven or eight years ago to Mr. Hippeley to inquire about him. Here I must observe, that the family of this witness's husband resided in the county of Wexford; that she had a brother-in-law and nephews there; who were tenants to the Anglesey family; she admits, she knew of the residence and great property of that family in the county of Wexford; and says, she had wrote to the late earl in that county. The earl had also a considerable estate in England. Why did not this witness write to her husband's brother or nephews? Why not apply to some of the tenants of the English estate? Why not inquire from some of the Irish lodgers at her friend Mrs. Knight's house, where she constantly visited? Why only apply to Mr. Hippeley, a person not acquainted in the county of Wexford? And tho' she applied to him (as she says) seven or eight years ago to inquire, she does not say, she applied to him to know the result of the inquiry; and Hippeley is not produced. She admits, she discovered two or three years ago, that her nephew Richard was living, and that she had long before heard of the father's death; why did she not disclose this matter 'till last July? The story is framed in this manner by her in order to account for his not claiming the peerage of Anglesey, while the inquiry concerning that peerage depended before the lords of Great Britain.

Catherine Buntin has contradicted herself most materially, and appears to have invented the story, she would impose upon your lordships; she set out with saying, that Mr. Salkeld, a merchant of credit, had three daughters, that one of them (the witness) was married to captain Hay, a gentleman of credit, with whom the earl was intimate; *that Hay introduced the earl into Mr. Salkeld's family, that they dined there very often, and that the earl had first seen Miss Ann Salkeld at her father's at dinner; that regular proposals were made first for the daughter's consent, and then to the father, and rejected by the father.* All this appears to be a rank falsehood; for on the cross examination this woman said, that Hay was married to her in 1740 without her father's knowledge; that he sent her in that year to the North to prevent the marriage, that she returned March 1741-2, and then confessed the marriage to her father, and afterwards did not live in his house; nor did Hay

after his marriage visit at all at her father's; and then she varied the story, and said, the earl introduced himself; and Mrs. Knight says, that none of the daughters lived at that time at Salkeld's house; that they had been before that time sent out of his house with their mother, and that Mrs. Buntin told her so; and says, that Ann Salkeld lodged with her before her marriage. This Catherine Buntin in the year 1743 set up a carriage in order to pass for a woman of condition, and deceive shopkeepers, in a scheme of cheating whom she engaged her younger sister, and they were detected and arrested. On her cross examination in order to conceal the cause of the arrest she swore, that her father had her arrested in order to try, whether she was married or not. This very improbable, that her father two years after her cohabitation with Hay, and after she had told him of the marriage, should arrest her in order to try, whether she was married; but what falsifies this account of hers, is, that it appears by Mrs. Knight's testimony, that her young unmarried sister was arrested at the same time. Was it possible, that the father would arrest the one sister, that he might know, whether the other was married? This witness (Catherine Buntin) on her direct examination represented herself as in the confidence of her father; so that he communicated to her the proposal made by the earl for her sister; but on her cross examination to account for the arrest she said, that at the time of her sister's marriage her manner of living with Hay was displeasing to her father so as afterwards to provoke the arrest. She having represented her husband, the supposed captain, as a person in credit and good circumstances, and a lieutenant colonel in the Prussian service; colonel Cullen, who happened to attend at the beginning of this trial, and remembered Mr. Hay, was called, and said, it was impossible, he could have been a lieutenant colonel in the Prussian service; and that he had been turned out of a French regiment, where he was a cadet; And it appears by the testimony of colonel Cullen, Mr. Masterfon, and Mr. Talbott, that Hay was in most distressed circumstances, and of very bad character; and that the reputation of his family was, that he married a cast-off mistress.

Besides the improbability of this story, and the manifest perjury appearing in the testimony of Catherine Buntin, the principal witness produced to support it, there is this further circumstance sufficient to prevent its receiving

receiving any credit; that it is not proved, that any of the three witnesses produced by this adventurer in the space of near thirty years mentioned this supposed very remarkable transaction to any person till lately. As to Catherine Buntin, it most materially concerned her nephew; it intitled him to very great honours in Great Britain and Ireland, and to great property in both kingdoms; and if she was above expecting any pecuniary advantage by the discovery, natural affection would have urged her to it; and if this lady was not remarkably averse to talking, and as free from vanity, she would have indulged herself in speaking of her sister the countess, or her nephew an Irish viscount and an earl of Great Britain.

Elizabeth Knight conversed with many of this kingdom, had set them lodgings from time to time; her sister was married to a gentleman who lived many years here, and yet no proof that she mentioned this matter to any person: She positively swore, that *she inquired from Mr. Carmichael about lord Altham* (for that is the title, these witnesses say, that Richard was called by) but Mr. Carmichael says, *she never mentioned lord Altham to him.* Mr. Sibthorp, who had lodged at her house, likewise says, *she never mentioned lord Altham to him.* This woman says, *she was never in the earl's company but the day of the marriage; and that at this serious ceremony he swore so much, that she did not go again to his house.* She said at one time, *she did not know any of Mrs. Hay's family, till she went to lodge with her in July 1742; and in another part of her testimony said, that Ann Salkeld lodged with her before her marriage.* As to Elinor Petherston, she says, *she had lived many years (ever since the earl's death) in one of the principal families of Ireland; read an account of the late earl's death, heard of the contest for the title of Anglesey, and her master was one of the peers of Great Britain; tho' she had been told eight years ago by Carrington, that Richard was living, she did not, till the night before she was to go to Ireland, mention in the family, that she nursed lord Altham; this silence remarkable in a nurse, and the more so as Richard was the only child, she had nursed: If she considered him as intitled to an earldom and great estate, she would have talked of and inquired for him; but if she considered him as illegitimate, her silence is accounted for; for it was not creditable to say, she nursed a*

bastard. This woman says, that the earl, who was preparing to set out for Ireland, brought two gentlemen to the nursery to see his son and heir; and desired them to say, they had seen him; yet it is not pretended, that the earl mentioned this to any of his relations, or to any person in Ireland: She could describe their cloaths very particularly at a distance of twenty nine years, and yet cannot tell the name of either of the gentlemen. She says, that all the family at Mill-hill (the miss Simpsons as well as the others) called Ann Salkeld by the title of lady Anglesey, which was acknowledging themselves to be bastards; and this at a time, when it is notorious, they assumed the title of ladies, and their mother that of countess of Anglesey. But her deposition, as well as those of Catharine Buntin and Elizabeth Knight, are filled with such improbabilities, that it would be wasting time to take notice of all of them.

One capital blunder the framer of the story has committed by giving the title of lord Altham to the claimant instead of lord Annesley; which appears to be the title, by which the eldest son of the earls of Anglesey has been always called: Probably this blunder was occasioned by looking into James Landy's story, and observing thereby, that the late earl was called lord Altham, before he was earl of Anglesey, without considering that the late earl's father was not earl of Anglesey.

The improbability (next to impossibility) of the principal part of the story, those women are produced to support, is sufficient to condemn it: This marriage is represented as a marriage not intended to be kept secret; that he acknowledged it to every body; brought persons to see his son and heir, and desired them to publish it: If this was true, all the family would have heard it, the countess would be visited by the relations on both sides: but it does not appear, that one of the family heard it. Mrs. Blake, a relation of the family (produced by Mr. John Annesley to prove his pedigree) heard of the marriages with miss Prust, miss Simpson, and miss Donovan, but of no other marriage of the earl: The earl's only sister (lady Haversham) was in London, and it is not pretended, that she or her husband or any relation of the earl, or any person of consideration, visited this lady; the nurse acknowledged, that she neither paid or received visits.

It is incredible, that if lord Anglesey cohabited publicly from May 1742 to August 1743 with a woman as lady Anglesey in London,

London, at a time when from the situation of his affairs he must have had frequent intercourse with his relations, and with persons of business, and many others from Ireland, that not one person can be found, who heard of this wife, heard of the rejoicings on the birth of the son, or heard of this lord Altham. It is not to be conceived, but that many persons of Ireland, who were then in London, tho' not connected with the earl, must have heard it; and if they heard of this marriage, it would have made an impression on their minds on account of the former publick cohabitation with another.

Mr. Patrick Kavanagh, who went with the earl to London in 1746, lodged in the same house with him while in London (from the 20th of July to the 19th of August) generally dined with him, and returned with him to Ireland, says, that the earl never mentioned to him, that he had a wife in London; nor did he hear, that any woman in England claimed a marriage with him; nor did he hear, that any woman visited the earl at his lodgings; nor did he hear of this child by Ann Salkeld 'till two or three days before his leaving London, when he heard, that a child, which the earl had by one Salkeld, was to go to Ireland with him. He says, that Mr. Green, nephew to the earl (the pretended sponsor of the child) said, the child was by a woman, whom the earl had kept in London, and that she was at Mill-hill. He says, she was then called Mrs. Salkeld, and that he considered the child as a bastard; and, that tho' the child was on the road, at the time the earl and the witness were, the earl did not introduce the child to him, or mention him to the witness. He says, Mr. Green lived with the earl in the county of Wexford 'till his death; and yet it is not pretended, that any person heard Mr. Green speak of this marriage, or of his being sponsor to this child; if he had, the reputation of his illegitimacy would not have been universal, as it is admitted to have been in this kingdom.

Also the uniform declarations and solemn acts of the father bear testimony against the legitimacy of this claimant; these are evidence of great weight in cases of legitimacy. It cannot be believed, that a father would endeavour to the last moment of his life to bastardize his legitimate son: a son that he appears to have had fondness for by bringing him to Ireland; separating him from the mother; by the care of his education, and by

the provision of 500*l.* a year made for him in one of his wills; and yet in the several wills (one made when the claimant was but nine years old) he calls him his natural son.

Besides the claimant Richard's own acts, his letters to lady Haversham, in which he considers himself as illegitimate, testify most strongly against him. Mrs. Buntin says, she informed him of the marriage of his mother in July last; since that (23d November 1771) he received the legacy of 1000*l.* bequeathed to him by the description of natural son, and no imposition upon him is pretended: This shews, he did not believe the story, supposing it was framed so long ago; besides he afterwards solicits for, and the 24th of January last accepted, a lease from the noble viscount of part of the estate, to which this claimant was intitled, if he was legitimate; and the lease was filled by himself or his attorney. In a few days after he applied to lord Valentia for another lease; and upon his lordship's saying he could not grant it without advising, Richard expressed resentment; and the way, he takes of shewing it, is by claiming a right to the title and estate of his benefactor.

If such an attempt as this was to succeed, no man, whose father or elder brother was in London, could be secure in title or estate; the greater the property, the less secure it would be, as the temptation to impose would be the greater. It would not be very difficult to get the sister of a girl, picked up in St. James's Park, and a friend of hers to swear to a marriage: but such swearing, not corroborated by other evidence, should not gain credit, tho' opposed only by the declaration of the father: Here, besides the improbabilities appearing on the face of the story, it is also opposed by the universal reputation for thirty years, and by the acts and acknowledgments of the claimant himself, at times when ignorance of the evidence, he now goes on, cannot be pretended.

I cannot conclude observing on the case of the claimant Richard without taking notice of an ungenerous suggestion, that he had received improper treatment from lady Anglesey; the contrary of which appears by the testimony of lady Anglesey, by that of Mr. Perce, and by his own letters. She always shewed the greatest disposition to serve him; when he offended his father, she endeavoured to reconcile the father to him; and when he ran away from R. 's, instead of suffering him to be exposed to the dangers likely to attend

a person of his age, without money or any relation to apply to, she brought him to Ross out of the road of danger, and put him in the way of reconciliation to his father.

I shall beg your lordships permission to make a few observations upon the case of the noble viscount, and to shew, that the present attempt of the claimant John Annesley should not receive the least countenance.

It is admitted on all sides, that the noble viscount has been brought up and educated as the son to enjoy the titles and estates of his father; that he was addressed in the lifetime of his father as the heir apparent to those titles, and called lord Annesley, by several of the witnesses now produced to deprive him of those honours; that his legitimacy has been acknowledged by the most solemn acts of his father, when he was settling his affairs, and providing for the event of going into another world; also acknowledged by the father during his last sickness, and when he was upon the brink of eternity.

The rule of the civil law and of reason is, that the treatment by the father of another as his son puts the person so treated in the place of a son; and that all presumptions are to be in favour of the legitimacy of that son so acknowledged. But the declarations and treatment of the father ought in the present case to have still greater weight; as the necessary consequence of legitimating this son was the depriving himself of the dominion over a very great estate. Witnesses to a marriage cannot be kept alive; and therefore the acknowledgment and treatment of the parents is the great evidence, every man has to depend on for his legitimacy. What disorders must there be in society, what injustice to individuals, if children, acknowledged and treated by a father as legitimate, are after the death of the father to be declared illegitimate and degraded, because at a distance of thirty-one years so full proof of the marriage of their parents cannot be given, as if the inquiry had been recent.

But this reasoning stronger against the claimant John Annesley, by whose wilful acquiescence the noble viscount has lost the benefit of the testimony of many persons, whose affidavits were laid before the attorney and solicitor general, and to the reading which affidavits he now objects; Mr. Fitzgerald, who took the instructions for the will of May 1752; lord Loftus, and Mr. Gamble, as to declarations of lord Anglesey,

before that time; Mr. Ians, Mr. Kyan, Mr. Stringer, Mr. Devereux, and Mr. Batt, all made affidavits upon that reference, and have since died. If Mr. John Annesley had pursued his claim, and an order of reference to your lordships had been made soon after the report of the attorney and solicitor general, all these gentlemen might have been examined before your lordships; and lord Loftus could from his seat have convinced your lordships of the right of the noble viscount to the honours in question: But Mr. John Annesley, instead of endeavouring to obtain an order of reference to your lordships, submitted to the opinions of the attorney and solicitor general; and the noble viscount without further opposition took his seat among your lordships.

After this dereliction of the claim of Mr. John Annesley the noble viscount, being in possession of a seat in this house, married a lady of noble family in another kingdom, by whom he has issue; and at a distance of several years Mr. John Annesley thinks proper to revive the claim, which he had abandoned, and would have your lordships now determine in favour of it, and against the right of the noble viscount to the seat which you have admitted him to, and consequently to the prejudice of the lady and her children, who during the time of this dereliction became as purchasers of the privileges, which the wife and children of a viscount are intitled to.

One other observations only I shall trouble your lordships with. Lord Anglesey lived nine years after the marriage of 1752, and during that time the noble viscount was publicly considered as legitimate, and as the person who was to succeed his father in the enjoyment of the honours in question. This not like cases, which have happened, where legitimacy not declared 'till after the parents death; here notice and time were given to the family of Ballysax to inquire into the legitimacy in the life of the father, if they intended to controvert it: And it appears by the declaration in the year 1750 of the then Mr. Annesley of Ballysax to Mr. Butler, that even at that time he was apprehensive of the present countess's claim of marriage, and had it then in contemplation to prepare against it, and for that purpose solicited the receipt signed by her maiden name.

Adjourned 'till to morrow.

Die Mercurii, 27th May, 1772.

Lord RANALAGH in the Chair

*Counsel called in.**Mr. Walker for the Petitioner Arthur Annesley.*

My Lords,

AS the foundation of Mr. Arthur Annesley's claim to the honours of viscount Valentia is built on the late earl of Anglesey's dying without issue male, it is unnecessary for me to make any observation upon the evidence of the sitting lord, or Richard Annesley, who claim to be the sons of the late earl.

I will therefore confine myself to observations upon the evidence on the part of John and Arthur Annesley.

The evidence for John (from what I could collect from his counsel) appears rather negative than positive. The weakness of the other claimants is his only strength. The evidence given by him was confined to the reputation of the family, which is the lowest kind of evidence; and our books [*Gilb. Law of Evid. 110.*] with great propriety say, one affirmative witness countervails many negative, for they may be both true. This rule of evidence is founded in wisdom and justice; for give me leave to consider, how reputation is picked up; mostly in conversation and company, where no person present may be interested to contradict it, and questions may be given up through complaisance and a variety of other motives; and therefore I conclude, that the reputation of the family has no weight against positive evidence. Has John produced any evidence to shew, that one of this family, or one even of the successive earls of Anglesey, has acknowledged the Ballyfax as the second branch of this noble family? He has not. It has been said, that Mr. Annesley of Ballyfax, supposing that his son was one day to inherit the late earl's honours, applied to him touching the education of his son: What was the earl's answer? Did he admit, his family was next in succession? No: his answer was, I have a son of my own.

I come now to make some few observations upon the evidence on the part of Arthur my client. Our first witness was Mr. John Annesley, who proved much more fully, than could be expected after 130 years, that the claimant Arthur is lineally descended from Robert the second son of Sir Francis, first lord Valentia, and that this branch of the family have been acknowledged relations by the earls John, James, and Arthur, successively, and by earl Richard, as an older branch than the Kildare or Ballyfax family. 'Tis not wonderful, that this branch, down, dispersed, and in obscurity, was little known in the other branches of this noble family; the wonder is, that it was known at all. As I am instructed, the estrangement between this and the first branch could be well accounted for, if the time would have permitted it.

The memorandum, proved by Philip Annesley to be the hand-writing of the claimant's father, is very remarkable: it was written on a scrap a paper, which shews, there could have been no design in the writer, that it should ever appear at your lordship's bar. It is 20th of April 1661 (the very day the Anglesey patent bears date) William son of James, son of William, son of Robert, son of Sir Francis, and brother to Arthur first earl of Anglesey: If this had been a forgery, Robert would have been called second son of lord Valentia, and his calling him brother of the first lord Anglesey is as much, as if he had said, next brother of the first earl of Anglesey.

The letter, proved to be the hand-writing of the same person, shews the attention given to the rank, they held in this noble family; and being written to his eldest son Arthur the present claimant, then in London, it shews, he looked upon him as intimately concerned in the transactions of the first branch; and it likewise accounts for the father's and Arthur's

Arthur's lying by from the death of the late lord Anglesey to the present time.

The three women, we examined, also fully prove the attention of this branch to their rank in the family, and that this claim is no new matter or point lately started; but that they have been all along on the watch, and have had the honours of the family in view.

This is the case, we made and proved. And I submit it, that it was all, that was incumbent on us to prove: and, my lords, I humbly apprehend, that nothing less than Mr. Annesley of Ballyfax's proving, that Robert actually died without issue male, can destroy our title.

I shall take up no more of your lordship's time, but conclude with observing to your lordships, that Mr. Arthur Annesley was under a necessity of putting in his claim to these honours, as a claim was put in by a younger branch; and assuring your lordships, that nothing but the strongest persuasion of right in his claim (as far as it went) could have prevailed upon him to have given your lordships this trouble: and, that if it had not been for the most disadvantageous circumstances he would have been otherwise supported in evidence, and at your lordships bar.

Mr. Hussy for the petitioner John Annesley of Ballyfax.

I AM persuaded, that your lordships in condescending to hear the junior counsel on this important subject intended to show a kindness to the gentlemen of the bar, as well as by every method to promote the investigation of truth; but it is a favour I almost tremble to accept of. It is a formidable thing to speak before this assembly, and upon this subject: before an assembly which constitutes the great hereditary council of the realm, and on a subject, which concerns no less than the pure transmission of that great inheritance. It is however some encouragement, that I speak on that side of the question, which seeks to guard the peerage of my country from being contaminated by a spurious succession; and I persuade myself, that this noble body will not be less delicate, whom they admit to sit amongst them, than the nobility of any other kingdom whatsoever.

I will begin with the case of the noble sitting lord. I am willing to pay this, perhaps this last, tribute to his precedency; and the

rather because his advocate seemed to be a little jealous, that Mr. Kelly did not pay him the same compliment.

It is acknowledged, that the present lady Anglesey was married to lord Anglesey some time in 1752; but it was necessary to go farther back; and accordingly some attempt has been made to establish a marriage in 1741. That a man married in 1752 should have been married to the same woman 11 years before, and that during the greatest part of that period a secret of that nature should never so much as steal into a whisper, is of itself incredible: They have resorted to invention to account for it. They have been obliged to prop the falling fabrick, but have done it so insufficiently as to be indeed a plain indication of its weakness without in any degree contributing to its support. An English earl, and, what in my mind is much more, an Irish viscount, is to seek a bride from the lowest of the people. To give this some colour the lady was introduced to your lordships in the dress of a heroine possessed of every personal charm; but it unluckily turns out, that those charms had been surrendered at discretion, before the supposed capitulation arrived. So unequal a marriage is of itself improbable; but that it should happen, after the usual temptation was gone, is altogether incredible. The very counsel for the sitting lord have treated it as a novel; the case of Pamela has been cited by the learned serjeant out of Fielding's reports: a story, which even as a novel has been condemned for the improbability of the fiction, is the only case, that can be found to equal the present in extravagance. But there is another manner, in which they endeavour to account for this preposterous marriage. It seems, the lady was with child; that lord Anglesey wanted an heir; was of a time of life, when he could not be certain of an increase of his family, and therefore was glad of an opportunity of having an heir ready made to his hand. If lord Anglesey was not likely to have children, I know not, who could be so. *Quæ regio in terris nostri non plena laboris?* Was there a country in the world, that did not teem with his progeny? Could he then find no heir, but one that he knew was unlawfully begotten, and that must all his life be subject to the reproach of illegitimacy? But your lordships are told, that lord Anglesey began to repent of his treatment of this lady, and was to marry her by way of reparation. Do but compare one part

part of the gentlemen's arguments with another : At one moment this is the cruel lord Anglesey, who sought after the blood of James Landy ; the next moment (as it serves to carry on the fable) he is so full of the milk of human kindness as in a pure spirit of compunction to marry this young lady merely to make her reparation for her lost innocence. The gentlemen tell your lordships, there are several instances of this kind : It has never been my fate to hear of such an instance. I do not say, that there are not men, who marry with a great disparity of fortune ; or that no man ever married a woman, whom he had before possessed : but if ever this does happen, it is not so soon after the intimacy : it is, when she has long studied his temper ; become mistress of his frailties ; and rendered herself necessary to his convenience as well as his pleasure.

Thus the story sets out ; it does not mend by the way. Your lordships are told, that this very extraordinary marriage was never heard of for six years, after it took place ; then indeed a dancing master found it out. No other witness mentions it 'till 1748. A young woman in a mean and mortifying situation, (the more mortifying, because it seems, she had some pretensions to family) is called from the bar of an ale-house to be the bride of an earl ; and for eleven years she never once mentions this extraordinary reverse of fortune to any human being, tho' her mother and brother are in the house with her. That any woman should thus long keep a secret, so ruinous to her reputation, is to the last degree improbable. But that a girl of sixteen, thus surprised with good fortune and giddy with elevation, should never in the levity of youth, in the pride of advancement, in the zeal of justification, in the tenderness of filial piety, that she should never have been hurried into a discovery, that she should never have satisfied the doubts of a jealous brother, or poured her secret into the bosom of an anxious parent, is an instance, I believe, no where to be equalled, unless Pamela, perhaps, may have furnished the learned gentleman with the wonderful example. But supposing her capable of this wonderful exertion, where was the might motive to it ? It is said, lord Anglesey's interest was not to have it divulged : But how was her interest, how was her character, affected ? It is said, indeed, that she could not be intitled to dower by reason of the articles of 1737, that therefore she was at

the mercy of lord Anglesey, and bound to obey his injunction of secrecy. Observe the contradiction of argument here again ; these very same gentlemen argued in another part of the case, that these articles were void ; if so, every argument drawn from those articles falls to the ground. But it has appeared to your lordships, that lord Anglesey had other lands of considerable value, that certainly were not under settlement : then was it not wiser for her to publish her marriage, and take her right of dower out of those lands, then to depend on the caprice of so whimsical a mortal ? But her peace, her fame, was to be the certain sacrifice ; every day, she delayed to prove the marriage, threw insuperable difficulties in the way of proving it at all ; and the very reasons, that are mentioned as his motives for concealing the match, ought to have been her motives for divulging it ; for what are those reasons ? There were many and powerful of his friends averse to his marrying ; that is, there were many persons willing and likely, if any opportunity was given, to controvert this marriage. Was it not then the more incumbent on her to put it out of the power of controversy ? Her interest clearly was to divulge her marriage. But we are told, it was an attachment to the interest of her husband, that induced her to secrecy. Are we then to suppose, that she was in love with the old earl ? His age, his character, his conduct, every thing, cries out against the supposition. Or was it a motive of duty ? But a few months before this lady had not resolution to resist his lordship's temptations. Did she then on the sudden become such a convert to constancy, so severe in her firmness, as from a motive of duty merely not only to forego her new dignity, but even to abandon her own reputation and the hopes of her children ? We must resort to another novel to equal this chequered heroism : such constancy with such frailty can only be equalled by the story of Eloise, and can be glossed over only by the elegant pen of a Rousseau, or the tongue of my more elegant friend.

So far only of that period of the fable, when the marriage is to be supposed an intire secret ; it is to open by degrees. It is agreed by all the witnesses, *there was a time, that it was to transpire*. Mr. Masterfon tells you, that in 1749 lord Anglesey told it to him in the presence of two others ; and in 1750 called her "Lady Anglesey" to the
Z z servants,

servants, and did not intend it for a secret that year. See how totally this evidence for the noble lord destroys his case. For eleven years lord Anglesey delayed to establish the peace and honour of his family, or to authenticate that marriage, which, had it ever happened, he must have been impatient to authenticate. They endeavour to account for it by saying, that 'till *one thousand seven hundred and fifty two*, he *could* not divulge it for fear of Mr. Annesley: and yet they *do* divulge it in 1746. Must not lord Anglesey know, that the very persons, who were enemies to his marriage, would be the first to hear such a report? Then is it credible, he should run the *hazard* of a discovery without at the same time taking the *benefit* of it by authenticating his marriage and producing the certificate? But who can blame him for not producing a certificate, before it was fabricated, or evidence before it was made? One principal motive assigned for the lady's secrecy was, that she was under an engagement to lord Anglesey not to divulge the marriage: but when he disclosed it himself, was not she absolved? And *when* absolved, would she not have been impatient to have been at once raised to nobility and restored to reputation? would she not have anxiously told her marriage to every being, she conversed with, and eagerly produced the decisive certificate? The matter was already divulged; how then could she persist in this ruinous silence? But supposing her this mirror of unnecessary secrecy, this affair was in the knowledge of Kavanagh and of Neil. Kavanagh was so perpetually intoxicated, that they would have you believe, he could not write his name twice the same way. And considering the exploits of Mr. Neil on Holy-rood day, your lordships will think, discretion was not his best talent.

I have thus far observed on the improbability of the outline of the story, and I hope, I have not transgressed the limits of speaking to evidence. Mr. Lock mentions, as a principal ground of probability, the conformity of a matter with the observation and experience of the person who is to give credit to it. Your lordships then are to consider, whether it is conformable to your experience and observation, that an earl should marry a girl from the bar of an ale house, and that after the usual temptation was gone; and that a secret of this importance should remain in such hands eleven years; in the hands of a drunkard, of a buffoon, and of a woman called upon by

every interest, every frailty, and every virtue to divulge it. I was going to say, that Mr. Locke mentions two grounds of probability; the first is a conformity to our own observation and experience; the second the testimony of others; and he considers the first so much as the principal, as to say, that the credit of the most untainted witness will hardly find belief, where it is contrary to one's own experience and observation. This warrants me at least to say, that if any witness ought to gain credit for a story so improbable as the present, it should surely be one above every objection to his credit. The only witness here is lady Anglesey; it matters not, how much I respect this lady personally; as an advocate, I know no body. Objections have been made to her testimony; and how have they been answered? An apology has been made by her friends; which I, as her opposite, would not have stated. Her character, say her advocates, is out of the question; for she had forfeited that at all events before the marriage in 1741. This is her *defence*; otherwise I should never have mentioned it; They seek to establish her credit on the ruin of her reputation, and would shew, that she cannot break one commandment, by alledging that she has broken another. But if there is any weight in the apology, that has been made for the frailty of her conduct, her character is materially interested in the event of this question. What was that apology? that this frailty was a slip of unguarded youth, of unsuspecting innocence. But is there no difference between that sudden slip and eleven years perseverance? It is a part of the case, that I had rather, your lordships should conceive, than I should enlarge upon. But she comes to be a witness for her son; and the controversy for that son is between a splendid title of honour and the opprobrious brand of illegitimacy and reproach; a reproach derived from her: is she then that witness above *all* objection, whose single testimony should be believed in the teeth of credibility, and who should establish a story on the verge of impossibility itself? If not, it will only remain to consider, whether there are any circumstances to supply the defect; they have attempted to prove some such circumstances, and by that attempt have admitted the necessity of such proof. They have endeavoured to shew a correspondence of persons, time, and place; let us see how they succeed. The first effort is, to shew that lord Anglesey was at Camolin in September 1741; Miss Barr swears,

swears, not to the seeing him there, or to the seeing him at all; she says, she is now on the verge of forty; but perfectly recollects, that when she was a child of eleven years old, she was on board a ship; which ship she remembers very particularly; tho' she had been on board several; and remembers a particular conversation on board that ship, tho' she does not recollect any conversation, that ever happened on board any other ship. She says, indeed, she recollects it from a book of her father's, in which book, she admits, there is no entry or memorandum of any such conversation. See to what suspicious evidence they have resorted to prove a matter easily capable (if true) of the clearest proof. If lord Anglesey was really at Camolin at that time, there could be no difficulty in finding persons of credit, that had seen him there; but they are not produced, and it is not difficult to assign the reason: If they were produced, they must have told you, at least, that neither Nixon Donovan nor Mr. Neil were at Camolin at that time. And this, I think, sufficiently appears from the manner, in which they endeavour to prove, that they were there. As to Donovan, one man only was produced; and his evidence was, that he walked part of the way with him from Athy *towards that part of the country*. Is it any proof of his being at Camolin, that he was seen to walk towards that point of the compass? Then as to the proof of Neil's being there; did no man meet him at lord Anglesey's table? Or can no man be found to remember a man of so many eminent qualifications? None. Something, it is said, *appeared* indeed to two miserable illiterate country fellows, in a strange garb, with a band and black coat: You might get better proof of an apparition in any village in the country. If this had been the real, bodily, Neil, some one would certainly have found him in the Act of eating, or of drinking at least: No, my lords, this could never have been the dancing, drinking, merry-making certificate-making Neil. Your lordships will observe, that lord Anglesey is supposed to have landed the fifth, and to have gone that day to Camolin: The marriage is not pretended 'till the fifteenth; they must have been there ten days. In that interval there was a remarkable hunting-match, and an entertainment given by lord Anglesey to the whole neighbourhood: Was young Donovan absent from the hunt? or trusty Neil from the banquet? or were they invisible on that memorable day, that no human

being appears to have seen them. It is said, the proving Mr. Neil to have gone to Camolin with lord Anglesey is a decisive circumstance: he could want him for nothing but to be married by him. Besides that this is *not* proved, was there no other business, which lord Anglesey could employ a person of so supple and so various a character? He might want him to pray for him, or to dance for him, to be married by him, or to kick him down stairs, as occasion might require. But supposing all these circumstances proved, they would not have been conclusive: They would only shew, that the authors of this fable had not been so very absurd as to lay the scene at a time, when the actors were absent; but the defect of the evidence induces the strongest suspicion, that these persons were not at the time and place, this certificate bears date.

I have mentioned something of the declarations of lord Anglesey, not as part of the evidence, but only to shew an inconsistency with the story told. Now to consider, what weight they ought to have as evidence. Wherever a man has told one untruth, what, he says on another occasion, will gain no credit at all. He exhibited a series of untruths by his declarations as to Mrs. Simpson. Do you believe, from those declarations, that Mrs. Simpson was his wife? for you have his declarations much more strong to prove, she was his wife, than that Mrs. Donovan was. I will consider his wills as declarations: They have said, they are intitled to credit, because they are acts of unusual solemnity. But there was a settlement proved by Mr. Colthurst, where he gave titles to the daughters of Simpson; Does not this shew him capable of making the most solemn declarations in order to give a false gloss of titles and legitimacy to the favourite of the hour? But if they were to be attended to, perhaps there never were such strange declarations before. One was a declaration to Mr. Edkins, who had lord Valentia under his tuition. A week after he had been introduced into his care, lord Anglesey said, That is my lawful son. It is plain, he had been committed to the care of his tutor under another character, or there would have been no need for this extraordinary declaration. He then tells Mr. Esmond, he could do nothing for Simpson, for now he had got a wife, that he was determined *to keep*: That *keep* is a dangerous word, and implies here, that he might keep her, or not, at his election. But it is supposed in argument, that he made favourable

favourable declarations on his death-bed, and that he could not continue an imposition at that awful time. If that was true, no fraud would ever outlive the contriver of it. But surely if ever there was a case, in which it would be excusable to continue a fraud on a death-bed, it is the present. You are told of his lordship's compunction towards this lady, whom he had seduced, at a time when he was not perhaps so capable of impressions of that kind: But on a death-bed that compunction was natural indeed; now was the time to make restitution to the woman, whom he had betrayed. There was no way, in which he could do it so effectually, as by at once repairing her character and legitimating her child. However, to put an end to this part of the case, this argument is founded on his declarations on his death-bed: but unluckily there is no evidence of any such declarations. Edkins says, he spoke of her and the children "in the same manner as before," that is, "with the same degree of affection and regard." Such loose words cannot be construed to amount to declarations of legitimacy. He was a witness willing enough, and yet was not asked further. But it is said, his declarations ought to have weight, because if he legitimated his son, he put him between himself and the dominion of his estate, and therefore speaks in those declarations against his own interest. It appears, that he had the estate in England and the estate of Camolin intirely in his own dominion, and a power to charge 25000*l.* for any purpose on his other estates. Was it possible to wish for a more ample power? Such a paltry dominion is not sufficient to counteract the desire of transmitting his honours to a legitimate son. But if you resort to a debtor and creditor account, he was a gainer by establishing the legitimacy of his son; because if he had not a legitimate son, one third of his estate was to go out of his family; and, at all events, he was actuated, if not by interest, at least by that pride of transmitting his titles thro' another self to posterity, which could not be gratified by illegitimate issue. For these reasons every declaration of his, that goes to favour the present lord's legitimacy, is to be laid out of the case as interested and suspicious; and for the same reasons every declaration on the other side is intitled to the utmost credit. See then, how strong and how express those adverse declarations are. He declared to Stopford Fielding, that his son was a bastard. This appears to have been wrung from him by a fear, that

Mr. Stopford would not accept the guardianship. It is objected as an inconsistency in Mr. Fielding's evidence, that tho' he says, Mr. Stopford was willing to have accepted the guardianship, yet lord Anglesey did not appoint him guardian; but this is easily accounted for: Lord Anglesey would not appoint him guardian, because on the first introduction of his son he would not take notice of him. Now this declaration of lord Anglesey's should have the greater weight, because it was not only against the general interest of lord Anglesey, but against the very point he had in contemplation at that time, the prevailing on Mr. Stopford to take the guardianship of his son. If solemn declarations in wills are to have weight, look at the will, where he recites, *that before his intermarriage with lady Anglesey he had several children by different women, and Richard Salkeld among the number.* Richard Salkeld was born in 1743, and before the marriage of lady Anglesey: Her marriage then could not be in 1741; but they endeavoured to account for this upon a point of grammatical construction, for that the sentence is to be divided into two parts. If you put on the spectacles of the law (tho' to common eyes it would appear but one) it seems, you must divide the sentence, and stop after reciting the children by Simpson: but he says, he had children *by different women*, which can not apply to Simpson only. It is said, the phrase is changed, that instead of going on "and by Mrs. Salkeld" he says "I had a son by Ann Salkeld." If the phrase, used in speaking of Richard, shews, he was not born till after the marriage, how comes the same phrase to be used as to Ann Glover, who was certainly born before the marriage? But it is said, here are the words, "during my separation from Ann Prust." In which way will the least violence be done to construction? by making that signify *since my separation*, or by dividing the sentence, and applying "*different women*" to one woman only? But it is said, every part of the will must be taken together; that he has said in another part, these children were had *since* his marriage; and therefore you must not take his word, when he tells you, he had them *before* his marriage. If there is any inconsistency in the evidence of a witness, you do not endeavour to reconcile contradictions, but discredit the story. That rule ought much more to prevail in the case of written evidence, where a man had time to recollect himself. Inconsistency

sistency in such a case, shews, that all the advantages of precaution cannot preserve a man from sliding at times into the real story, and involving truth with falsehood, 'till the whole becomes a heap of perplexity and contradiction. But in these wills the great circumstance is, that under the articles he was tenant for life, remainder to his son in tail, and if no son reversion to himself in fee; and the consequence was, that if he had a legitimate son, he had no dominion over his estate; if he had not, he had the absolute dominion. By all these wills he takes upon him to devise the fee of these estates: Was not that saying expressly, he considered himself as having a right over those estates? which he could not have, if he had a legitimate son. Two answers were attempted to this; first it is said, these articles were voluntary, and therefore void; and that he was owner of his estate, tho' he had a legitimate son, because those articles could not be enforced. First, these articles were not voluntary; for where two people, claiming a right to a family estate, both agree to convey, the remotest remainders of that family are purchasers for valuable consideration: but if they were voluntary, can a will take place of a voluntary settlement? A subsequent deed would not, much less a will: And tho' there may be a distinction between articles and a settlement executed, yet there is no distinction in this particular case. Here was a decree to carry these articles into execution; therefore a court of equity would now consider them in the same light, as if that decree was executed, as it ought. But another way, in which gentlemen endeavour to get over this difficulty, is, by saying that lord Valentia was not at liberty to controvert this will upon another principle, that whoever claims under a will, must abide by it in the whole or not at all. I admit, that if a man devises that, which he had no right to devise, a compensation will be made out of that, which he had a right to devise; but that can only take place, where there are devises to different persons. Here the whole is devised to the sitting lord; and therefore that principle cannot apply to this case. I therefore rely upon it, that when lord Anglesey took upon him to devise the settled lands, it shews, that he considered himself as having no legitimate son; for if he had, he had no power to devise: But the act of lord Valentia himself shews, that he considered himself under his will as tenant for life only, and accepted the estate on the

terms of this will. This fully appears from the testimony of Mr. Flood, a witness, and not only a witness, but an agent and brother of lord Valentia, and coming out of his mouth it must be conclusive against him. If then the declarations of lord Anglesey in favour of lord Valentia can have but little weight, and at all events are out-balanced by the declarations against him, that part of the case totally fails the sitting lord.

See, then, whether there is any thing else to support his case. The declarations of Neil have been resorted to: but first consider his character, to know what respect should be paid to his declarations. His conduct on Holyrood day has made such an impression of horror on your lordships minds, there is no necessity for the painful task of recapitulation. Can the account, which is given of his conduct in the county of Wicklow, countervail that conduct of his at Camolin? The account given of him there is only for nine months. Every witness, that was produced, confined his testimony carefully to that era; and his good character, if he had one, has never gone beyond the limits of a little country parish. It may be said, they oppose the character of nine months to the misconduct of an evening: but there is this difference, that a man once guilty of a mean vice becomes incapable of an ingenuous virtue: And all, that is said in his favour, proves only, that he was capable of adding hypocrisy to his other vices. Only three witnesses are produced, all from the same spot, and to the same point of time. How local and how transient were his virtues! They dare not follow him to any other place; not to Kildare; he lived longer there, and it would not be safe to trace him to St. Luke's parish; there he was disgraced from his cure. But to apologize for the exploit of Holyrood day it is said, he was not guilty of a dishonest act. An infamous conduct destroys the credit of a witness perhaps more than an immoral one. A man, who has lost his virtue, may be still subject to the check of shame; but he, who has abandoned his character has no tie left, that may bind him to truth. They seek to palliate his misbehaviour by imputing it to wine, and would compound the charge of indecency for that of intoxication: but an elevation of spirits can never account for such a meanness of vice, to prostrate his character at the command of his tyrant; to jump up in the face of a whole country at the beck of an insolent libertine, and yoke himself in infamy with a
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young slave whom he was corrupting. After that farewell to his character he might laugh at common infamy, and set the pillory at defiance. This is the gentleman, whose words are to confer nobility, and whose certificate is to be the patent of an Irish peerage. His first declaration is to Simon Kavanagh. When did this happen? in July or August immediately preceding the second marriage. The time cries aloud, that Neil was informed, and accordingly he makes use of the stipulated expression, *that he was surprized at it*; the very expression used by him when a second certificate was demanded, at a time when their own witnesses admit, that expression was preconcerted. If then Neil knew of it, no credit is to be given to declarations, in which he affects to be surprized, and to know nothing of the matter.

As to the certificate, which stands solely on the credit of Neil, where was it found? in the custody of lady Anglesey, the last person in the world who ought to have kept it; and she was not a woman likely to be imprudent. If the marriage was to be kept with secrecy for the present, or disclosed with authority in future, this important evidence of it ought to be deposited in the hands of some friend, whose honour might be relied on to preserve it, and whose character might give it authenticity. Was there no such person to be found? Mr. Donovan, her uncle, a man of the strictest honour and highest reputation, lived within a few miles of her. But the time of producing it is no less remarkable, than the person by whom it was produced. This marriage had been whispered about from 1746; and yet during an interval of five years this certificate, the great evidence of it, was never once spoken of; never till the critical moment when the second ceremony was to be performed; and when it is waked from the dead after an oblivion of eleven years, it comes with all the marks of fraud on the face of it; it carries a rasure of the date, a (D) appears there; and if my eyes inform me right, the 5 has been evidently altered from a (3) no alteration is so easy. A rasure in any deed, if in a material part, tho' made by a stranger, deprives it of every credit; and what can be more material than the date of this certificate? but even if in an immaterial part, and made by a party concerned in interest, the rasure of an (if) shall deprive the party of the benefit of the deed. Who could have made the alteration, but the party in whose possession it was all along? It is

said, this (d) might have been written by mistake instead of (th) and that there were two figures there, from the space they occupied. In reckoning up to 20 there are but three figures, that do not end with (th); now is it probable, that a mistake should be made, by inserting the less usual termination instead of the more usual? It is asked, to what end could this rasure be made? If this had been a genuine deed, the rasure would probably never have appeared; but being a forged one, nothing is more natural: It was to be lady Anglesey's only title deed; the muniment of a title she must know would be disputed; she would therefore naturally have it written over fair, when the persons were all present, who could sign it a second time as easily as the first. But view it as a forgery, and nothing is more probable, than that the doubt, hurry, and confusion, that attend an improper act, and the unwillingness to reiterate a crime, should prevent a fair copy from being made. Besides this forgery was by persons, whom they could venture to trust, not by persons expert in the art; so that having once succeeded tolerably well, they dare not resort to a second experiment. It is said, if there had been a rasure in this certificate, another rasure would appear in the other to correspond with that: but the probability is, that this was written first. Now, who are the witnesses to the certificate? if they had been looking for years, they could not have found persons so improper to subscribe their names. The object was present secrecy, future notoriety. Was a drunkard a likely man to conceal this important secret; or where could you find a man under such hourly temptation to betray it as a brother, who might naturally have divulged it to wipe away the dishonour of his sister? Again, when the term should arrive to establish this marriage, was it the authority of such witnesses, that was to give it sanction? but it remained to prove the hand-writing of the witnesses. It is said, Mr. Kelly argued, that the name of Kavanagh was proved, and was not proved. What he said was, that it was not proved; but that if it were, it would not be conclusive: and I join in that assertion; for who so likely to be drawn into a scheme of this kind as a servant under the dominion of lord Anglesey, whose morals were sapped in liquor? It is said, we object, there were not *more* witnesses; no, we object, there were not *better* witnesses, when they might so easily be had: One of these witnesses, when called on

on to read the certificate, got through a word or two, but could not go farther. It is said, you must not judge of the similarity of the hand writing to the exhibits. Perhaps similitude of hands upon actual comparison may not establish a deed; but dissimilitude of hands is a very different thing. The proof of Nixon Donovan's hand is more deficient than that of Kavanagh's. To prove his hand Ryan is called; he looks on the back of the certificate instead of the face of it: however it answered as well, for on turning the face he swears without hesitation to Donovan's hand writing; he can swear to it, but he cannot read it; which shews, how much more expert he is at the one art than at the other; spectacles are handed to him, but in vain. Darcy is produced; and from the misconduct of the former witness in swearing to his own mark, when he professed to swear to Donovan's hand writing, your lordships would not shew the whole paper to the succeeding witness; he was called to swear to the hand writing of Donovan, which was shewn to him; he said, *he was astray*; and why was he so? because he did not know, whether that was the paper, that was to be beneficial to his lord: he was astray at the paper; but as soon as he had reason to believe from the questions of the counsel, that this was the certificate, he had done with his scruples; he swears to the interests of lord Valentia, the moment he is sure, on which side they lie. This alone is sufficient to evince, that this was a fabricated witness, and his testimony infects the whole cause. They both swear to the hand writing of Donovan at nineteen, from the similitude of the hand he wrote at eleven. It would not be his hand, if it was like what, he wrote when he was eleven years old; for no man ever wrote the same way at nineteen as at eleven. Now as they have attempted to prove this to be the hand writing of Donovan, and failed; it must be taken not to be Donovan's hand; and then a palpable forgery appears, and no credit whatever is to be given to this certificate. It is objected, that as to the exhibits, you cannot judge from one to the other, as Kavanagh wrote variously: but the character of his hand must be some what the same. And Byrne, one of the witnesses, said, the shape of the letters was the same, tho' the hand was worse at one time than another. A charge is brought against Mr. Annesley, that his case made before the attorney general was inconsistent with the present; that he had said there, this was Kavanagh's hand,

and that Kavanagh was party to the forgery; but he only came to say in general, this scheme was false. No one can undertake to know the particulars of the falsehood, but the contrivers or abettors of it.

So far as to the evidence of lord Valentia. Mr. Annesley on his part has laid before your lordships, some very important evidence. Lady Anglesey said, when she signed a receipt to the bond in 1749, that she was under the utmost concern, because that was the only writing, that could appear on record against her. But it has been proved, that she did sign another paper, which must appear on record; the warrant to acknowledge satisfaction; tho' the original has not been produced, it appears on the face of the record itself, that Juliana Donovan executed a warrant of attorney to enable the person, she employed, to acknowledge satisfaction. It is said, this record ought not to affect her without actual proof, that she signed the warrant. I have often heard, that evidence should not be admitted to contradict a record; but never that one, who produces a record, is bound to bring evidence to corroborate it. Every court allows satisfaction to be acknowledged in this manner; and it must be presumed, that those courts do their duty, and will not suffer satisfaction to be entered without proper evidence laid before them. What will be the consequence, if one is bound to prove the actual warrant for satisfaction to every judgment? The record must surely be evidence, at least till the contrary is shewn.

Mr. Tottenham has also given very material evidence to your lordships on the part of Mr. Annesley. But it is insinuated, that this gentleman formerly thought more favourably of lord Valentia's claim, than he appears to do in the evidence, which he has given before your lordships; and a letter is produced from him to lady Anglesey, wherein he speaks something of affidavits, and wishes, that her ladyship may have no further disturbance. Supposing that this letter alluded to the controversy of the title, Mr. Tottenham by wishing the lady success does not give an opinion upon it; it is only a compliment, that he wished, her cause should appear just; but in truth it does not appear, that this letter related to the contest as to the title, for he said, there were a hundred affidavits relative to the claim of marriage with Simpson; and he believed, it related to some of those; and it is most likely from the words. The marriage

marriage with Simpson immediately affected lady Anglesey, and therefore was most likely to be the matter, which would give disturbance to her. But it is said, because Mr. Tottenham swore some affidavits, he must therefore at that time have thought lord Valentia's claim a good one. This is a strange way of arguing. Had Mr. Tottenham a right to suppress the facts, he knew, because in his private opinion he thought those facts not of weight. Some attempt has been made to insinuate an objection to Mr. Tottenham's testimony on account of his being the uncle of the wife of Richard Annesley; he is the offended uncle. The fond mother of the sitting lord is to be supposed unbiassed and impartial; but the exasperated uncle of Richard Annesley, is a suspicious and prejudiced person.

Now as to the signal Elizabeth Smally, who first made her appearance in a court of justice at the desire of lord Valentia; upon her *credit* he has sat two parliaments, and now he thinks it reasonable, he should sit upon her *discredit*. If ever this witness was fabricated, it was not by us. If we have got into any scrape, it was, because we did *not* fabricate her as well as others, who made use of her. We set out with disclaiming Smally, and rely on the weakness of lord Valentia's case; if that cannot be credited as standing by it self, has Elizabeth Smally said an ything to give it weight?

Among the many trifling objections which gentlemen on the other side have been obliged to resort to, one has been made to the testimony of Stopford Fielding. He is charged with contradiction, because he said, he was surprized with some event in England, and did not say so here. Can there be a more trifling thing to differ in? surprize is the most common word, that can be; there is scarce any event so trifling or so familiar, that you may not hear men say, they are surprized at it. To agree in very minute circumstances discredits witnesses perhaps as much as to disagree in important circumstances; where they agree minutely, it looks, as if they were labour-ed copies the one of the other, and not the bold representations of truth. So that from this little variance the testimony of Fielding derives credit instead of impeachment.

There is another objection, on which gentlemen seem to plume themselves not a little; lord Courtown, say they, sat in this house with lord Valentia; and from thence they would infer, that it could not be lord Courtown's

opinion, that lord Valentia was illegitimate; but I beg to know from the gentlemen, whether it was in lord Courtown's power to remove lord Valentia, after the attorney general had reported in his favour, and his majesty had granted his writ.

I shall now beg leave to speak a word or two as to my right hand neighbour. The marriage of lord Anglesey from 1748 till 1752 was a *secret* marriage every where published. The marriage of Mrs. Salkeld was a *publick* marriage, that *nobody ever heard of*. No circumstances at all are proved by this gentleman, because he saw lord Valentia defeating himself by proving circumstances, that militated one against the other. Mr. Hay, it seems, brought about this marriage; he was a very careful guardian; his ward lived several months with lord Anglesey, and he never thought of having her married, till one day after dinner he thought, *my lord might as well marry the girl*; there was a clergy man there; they knew it, for he said grace; grace after meat, I believe. This case does not deserve any serious observations; for no man seems to entertain a serious doubt about it: but tho' no credit can be given to it, it is much stronger than the case of lord Valentia. Richard Annesley has two positive witnesses, lord Valentia only one; and his story is a thousand times more improbable than that of Richard. But if your lordships establish either of these, the one or the other spurious claims, you may put an end indeed to the disputes of the present claimants, but not to the controversy as to the Valentia peerage. Lord Anglesey was in Wales before his marriage with Miss Donovan, and might have married some handsome Welshwoman. No sooner determine that one of these claimants is intitled to his seat, you will have new claimants from all quarters of the globe; every one of them with his credentials from his mother or his nurse, with thousands of certificates in all the languages of the known world, from popish priests, Indian dervises, Jewish rabbis, and Welsh parsons.

It is said by the noble lord's counsel, marriage is to be favoured in every country. I am proud to adopt this principle; yes my lords, that avowed, that honourable, marriage, which adds tenderness to friendship and dignity to love, which brings pleasure within the pale of religion, which softens the aspect of virtue, and makes it more amiable, which renders men happier and better citizens, by multiplying their ties to their country,

country, and establishing a notoriety of succession; let it, let it, be favoured for ever; but how will you favour it? is it by preferring the spurious offspring of a doubtful bed, and thus defeating that notoriety which is one great end of the institution? No my lords, show the jealous nobility of other countries of Europe, that an Irish house of peers will not endure a doubtful birth among them.

Before I conclude, I cannot help taking notice of an expression, that fell from one of the counsel of the fitting lord; he was pleased to say, that *he* mentioned the decision of the peers of Great Britain as a precedent only; 'till I heard that *I* never thought a different idea could be entertained; for I never can forget the respect, which I bear to the parliament

of my country. I hope, it is not the intention, (I am sure, it cannot be a successful one) to awaken a false pride against your truer judgments. An insinuation of this kind would not be listened to in any other court of judicature. If it was urged in Westminster-hall, that lord Hardwicke did so, or lord Camden did so, therefore do not you do the same, least you should be thought to imitate others: The judge adopting the decision of those great men would say, I do not submit to their authority, but emulate their integrity; I do not stoop to them in power, but contend with them in honour.

Adjourned 'till to morrow.

Die Jovis, 28th May, 1772.

Lord RANALAGH in the Chair

Counsel called in.

Mr. Wallis for the Petitioner Richard.

UNDER the regulation prescribed for the conduct of the council at your lordships bar, it becomes my duty to address you upon behalf of the claimant, Mr. Richard Annesley, as he is at present styled. And when I consider the dignity of this assembly, the abilities of the gentlemen who have gone before me, and of him who is to succeed me, this is a task, I enter upon with hesitation.

I did intend to lay before your lordships the great improbability of the original motives of lord Anglesey towards the first marriage; but that has been already done with much greater ability, than I pretend to. If these motives are suspicious, they induce a doubt as to the consequential marriage; and will induce your lordships to look into the subsequent marriage with a nicer eye, than otherwise might have been requisite. From these motives some doubts may arise, and probably be supported by some circumstances, that this certificate was an after thought; a contrivance by interested parties to overreach the marriage, under which Richard claims, and of which lord Anglesey must have

been perfectly conscious; and that the intent of this certificate was to gain a credit to the marriage in 1741; without which lord Valentia could not obtain any right to his seat in this house, or title unto the estate of his father. Nixon Donovan died shortly after this certificate; and unless there is clear proof, that he was actually a subscribing witness to that certificate, that circumstance may, *it will*, induce a suspicion. His name was affixed to give an appearance of truth to this certificate, and therefore that, which was intended to strengthen this certificate, may tend to, *will*, overthrow it.

The proof of the actual celebration depends on the evidence of lady Anglesey, a person most interested in it upon account of herself; her fortune, her present and future reputation, and the dear pledge of her affection. It has been said, that by the rules of the civil law lady Anglesey is a competent and irreproachable witness: but by the general principles of that law not only the father and mother, but even the son, are debarred from being witnesses for each other. That law

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yet goes farther; it prohibits a person having a resentment from giving evidence against the object of it. In this and a neighbouring country, I own, the civil law has taken another turn. By the common law of those kingdoms parents are admitted as witnesses in behalf of a child, and are received in the courts of the civil law, established in those countries only; because the consequence of refusing those, whom this law deems as competent witnesses, would be a prohibition from the superior courts of the common law. It has been also said, lady Anglesey was deemed a competent witness by the peers of Great Britain. But no objection was made there, by either of the parties. Richard Annesley was not then a petitioner. Her conduct and behaviour at your lordships bar has been urged as a proof of her truth, and of her delivering from thence a clear and consistent evidence: It perhaps may be so: A publick exhibition is preceded by a variety of rehearsals; the grand performance is not, 'till every one is perfect in his part. Lady Anglesey has been examined in Great Britain; her evidence is nothing more, than what she often rehearsed, and probably very frequently repeated upon other occasions.

It has been mentioned, that unless your lordships shall give full credit to her testimony, you in fact regard her as guilty of forgery and perjury; and this I shall only answer by asking another question, what was the determination by the lords, who heard her testimony in Great Britain? Another species of evidence to give credit to this alledged marriage arises from lord Anglesey's declarations; if the first marriage was such a scheme, as I have before mentioned to your lordships, lord Anglesey must have been a principal actor in it; and his declarations to establish that must be received with great allowances, if not absolute discredit; and especially considering the instances of lady Anglesey's influence over him. His declarations are vague and uncertain, specifying no particular marriage, nor time of marriage; they are not made until near the time of the second marriage, when it was necessary to give an appearance of credit to the first. Another declaration of his to Mr. Talbot is much relied upon: Mr. Talbot has sworn, that upon some conversation as to the several persons, who were in expectation of the family titles and honours, lord Anglesey said, he would produce an heir, that should disappoint them all. These words have been

applied to the present lord; from thence it has been pressed upon your lordships, that he was considered as the heir, who was to act in the exclusion of the remoter branches of the family. But the words may relate to one child as well as to the other. His lordship was conscious, that he had legal issue, the now claimant Richard. His lady was then attempting to substitute another. If Arthur was then considered to be this heir, why was not he specially named? It is easily accounted for, why Richard was not particularly pointed out; the influence of the lady had come to its height; and lord Anglesey, while acting under that, could not specify the name of Richard, however his thoughts might be turned towards him.

The proof of the certificate depends on the like interested testimony of lady Anglesey, and on the similitude of hand writing, which is at best but a weak species of evidence, as depending wholly upon the judgment of the witness. The bare comparison of hands is not legal evidence in favour of the party producing it, but in favour of the other party; who has a right to produce writings proved to be the signature of the same party in opposition to that offered by his opponent; and this actual comparison of hand writing is rather a better way to prevent a forgery than by resorting to the bare belief of a witness. It is unhappily too easy to procure evidence to alledged facts; how much easier as to matters of apprehension only, where the great terror attending the punishment of perjury is removed. But a stronger proof arises from the similitude of these hands than in most other cases. It is said, that the evidence on both sides is as to belief only as well concerning the certificate as the exhibits. But this case appears in a stronger light. There is a receipt attested by Kavanagh, one of the witnesses to the certificate, proved or acknowledged at the bar by lady Anglesey herself; so that out of her own lips it is acknowledged, that this is the hand writing of Kavanagh. By comparing the subscription of this Kavanagh to the certificate with his signature to the exhibits your lordships will see, which is the real, and which the fictitious, name of Kavanagh.

The gentlemen, who appear as counsel for the sitting lord, have said, that the claimant, Richard Annesley, has not contested the hand writing of Kavanagh to the certificate of 1741: but these several exhibits have been produced by the parties in opposition to lord Valentia; they

they were not produced to strengthen the certificate of 1741; and must then have been introduced in order to impeach it, and to convince your lordships that the hand writing of both is not that of the same person. As to the hand writing of Neil, who is said to have been the person, who wrote the original certificate, it is to be observed, that this certificate bears date the 15th of September 1741, and Neil's hand writing is proved by a young gentleman, who was not born for several years after; and he has mentioned his knowledge of Neil's writing from a time, when he was oppressed with infirmities, and labouring under the torture of the gout. The hand writing of a person at that distance of time, and so afflicted with distempers, and rendered weak by age, cannot be the same with that of a person in full health; and this tends to confirm the observation, that this certificate was not written at the time, when it bears date, but was the work of a subsequent day. The witnesses to Nixon Donovan's hand writing all swear to a very slight knowledge of his hand when a school boy, and upon an acquaintance of a few months only. No person acquainted with the hand writing of these witnesses about the time, when this certificate is dated, has been produced, tho' there must have been many, who remember their writings about that period of time. The counsel for the fitting viscount have said, that some of the witnesses, who proved the hand writing of these witnesses, did prove the same ten or eleven years ago; yet if the fact be so, that will be far from taking away the original objection to their testimony, that they were originally incompetent judges of these hand writings.

There are but two witnesses as to Kavanagh's name to the certificate, and they differ concerning that matter: One says, it was Kavanagh's best writing, the other, that it was the worst; and therefore concludes, it was written, when he was drunk. This alledged difference in the hand-writing of Kavanagh was first introduced in this house, and was not thought of at the time of the inquiry before the lords of Great Britain. On the 29th of January, 1771, the examination of Elizabeth Smally commenced, and she then impeached the authenticity of the certificate, and of the signature of the pretended witnesses to that paper. In the subsequent month of March the credit of this certificate was endeavoured to be supported by Darcy and Cornelius Donovan; yet no evi-

dence was given as to the difference of his hand-writing; that was an after-thought, conceived and put in practice, when it was seen, that there was a material difference in the signature to the certificate from the name to the exhibits in the hand-writing of the same man. In looking attentively at the certificate there appears the strongest similitude between the writing of each of the affixed names, Nixon Donovan and Charles Kavanagh, and therefore a suspicion naturally arises, that they were set by the same person. Lady Anglesey in her evidence represented the certificate as one intire transaction had at the time of the marriage; yet your lordships may observe a difference in the ink, apparent from that paper. The body of the certificate is of a different ink from that of the names of the witnesses; nor should this seem nugatory, such trifling articles have often detected great forgeries. The credit of this certificate, as of all others, depends upon the integrity of the person certifying, and the consistency of the certificate with itself; and then it will follow, that a certificate, inconsistent with itself, cannot receive credit. The contents, and the falsity of it, have been already taken notice of; I shall only observe, that so far from observing the direction of the Rubrick this instrument certifies the marriage, it attempts to establish, to have been celebrated in direct contradiction to it. As to Neil's character I shall mention nothing more, than that Mr. Tottenham goes nearer to the time of this certificate, than that of the other witnesses produced to this matter. The great objection to his character is, that he was ready to do every act, however improper or indecent, at the command of lord Anglesey, from whom he received that support, which he probably could not meet with any where else; and this subserviency of his is corroborated by the testimony of lady Anglesey herself and by Mr. Masterfon. Neil pretended to object to the second marriage, but his scruples are satisfied by a peremptory command; and then that command is instantly submitted to, and the marriage performed. The same subserviency might oblige him to lend his hand to the certificate, as he had his performance to the marriage.

The concealment of the marriage, alledged to have been first solemnized, has been attempted to be accounted for from the peculiar situation and distress of lord Anglesey: but Charles Annesley, who was next in remainder to the family titles and estate,

estate, could not have suffered him to sink without drowning himself: he in 1746 died without issue, and then all terror of him ceased.

As to any apprehension from the Ballyfax family, lord Anglesey appears to have lent them money on their bond, and to have dealt for the purchasing of the very mansion of that branch of the family; so that instead of his being in their power they in effect were in his.

Notwithstanding this pretended secrecy this marriage alledged first did at sometimes transpire, before the reasons given for concealing it had ceased. It is difficult to account for the concealing that marriage upon those principles, if any such really existed; but recollecting the time of Mrs. Salkeld's living, it is rationally to be accounted for, why it was not touched upon sooner. She lived 'till the beginning of 1749; during her life no marriage with Mrs. Donovan could be promulged, or take effect; but as soon as she died, all artifices are used to spread the rumour of the first marriage now set up: The sphere of Neil's acting is enlarged, and he is let loose about the country to divulge this pretended event. This only can account for the conversation with Simon Kavanagh and the marriage in 1752. Lord Anglesey's lady, married in England, had lately died there; and then, and then only, Mrs. Donovan set about this second marriage; which, so far from implying a confirmation of the first, rather seems, as if there never had been a former. This second marriage could not give a right of legitimacy to children born before.

And now to speak as to the period of time which accompanied this second marriage, of which marriage there is no doubt. By this time the influence of Mrs. Donovan, which had been before gradually gaining ground, had extended itself in full bloom. The progression of this influence appears from his wills: at first they begin with rumours, whispers of a former marriage; then, as her influence ripens, they take effect in declarations of the party, and lastly in the celebration of a second marriage, as it is called. The circumstances attending this second marriage seem very extraordinary; the whole appears to have been concerted previous to the day of execution; nay the very surprize of the performers was preconcerted. The next day a company is assembled without previous intimation of the purpose of their meeting, and the prepared farce is played over: Neil produces the certificate, unnecessarily

acknowledges his hand-writing; then others as unnecessarily take up this paper, and declare the authenticity of the hand-writing of persons, which was not then doubted. Neil makes an objection readily, and as suddenly withdraws it at lord Anglesey's peremptory command, and performs this mock ceremony; yet some of the most solemn is neglected; no licence was had, or is pretended to have been obtained; Neil was before but too well accustomed to act without that sanction. If lord Anglesey was apprized of the proper method of security to his lady and children, and accepted means not so effectual, it must have been, because there was something dark contained in the original transaction, that could not bear the light.

To apply myself next as to the marriage with Mrs. Salkeld; in pretending to controvert this the gentlemen, who have appeared on behalf of the sitting lord, have strove to entertain your lordships' imagination, rather than assist your judgment, by entering into months and seasons as improbable times for matrimonial connections; as if from its being in the month of May, and the meeting happening in St. James's park, an honourable connection could not ensue; and it seems expected, that your lordships should reject positive and consistent evidence, and rely upon loose circumstances intirely. The case of the chaste Susanna has been instanced by one of the counsel, but the variance there between the witnesses turns upon a recent transaction, and not one of thirty years before the delivering the testimony. Lord Anglesey was undoubtedly in England in May and August 1741; he there saw the daughter of a man, at the worst esteemed rich, and allied to a considerable family. He has been represented as a broker; the name of a broker here may not carry much respect, where trade is yet in a comparative state of weakness; but it is otherwise in a neighbouring kingdom, where instances have been of persons of that occupation acquiring fortunes seldom attained by many of other occupations. Another objection was made from a particular expression used by two witnesses, as to his wealth, that his word would be taken for 30000*l.* that, however unusual in Ireland, is an expression constantly attending every man of wealth in London, and is particularly proper when applied to a citizen, as it goes to his reputation of honesty as well as wealth, that his word would be taken for large sums. But the contest arising as to his effects,

effects, and the long and expensive litigation thereon, shew, he was not only a man, who had the reputation, but possessed the substance, of riches. In this situation lord Anglesey saw the daughter of this man, but still observed her in a more particular point of view: He regarded her as a child resident with a father, whose eldest daughter had disoblged him; and therefore he might have turned his thoughts towards possessing the whole, and not a share only, and might have relied upon his title and estate, and conceived himself upon that account a fit match. It has been said, that Mr. Hay was the person, who introduced lord Anglesey to the family of Mr. Salkeld; but he only presented him to the family, the proposals of marriage came from lord Anglesey himself to the father. It has been said to be surprizing, that a London citizen should refuse an earl of Great Britain: The thing is more than possible, and in this case from his behaviour more than probable.

But supposing this citizen as greedy of honours and desirous of wealth as can be imagined, yet these very principles will account for his rejecting lord Anglesey's suit; for at this period the adventurer James Annesley first made his appearance, and contended with lord Anglesey not only for honours but estate; and he came from a country, where his claims must have been early known to the mercantile part of London. From the time of the refusal lord Anglesey acted on a principle not uncommon: instances have been frequent, where people under such circumstances have reasoned with, and been convinced themselves, that if a marriage once be had, which cannot be undone, a reconciliation will naturally follow; and under this hope, it is more than probable, the first marriage between lord Anglesey and miss Salkeld was had. It was a secret marriage: The very secrecy in his situation, and with his hopes, made a repetition absolutely necessary to satisfy the father so as to induce him to dispose of his wealth, and to legitimate the child with which the lady was then ensient. The intervention of Mr. Hay was with a peculiar propriety considering his situation: He was married to the eldest daughter without consent, and thereby had precluded himself from succeeding to any part of Mr. Salkeld's fortune: It was natural therefore for him to desire a reconciliation with the family of his wife, and to do every act for that purpose; and to this end the second marriage of lord Anglesey with miss Salkeld was probably de-

signed by him, that he might have it in his power to give evidence of that fact, to acquire riches and honours to his nephew, and some benefit to himself. An objection was made to Mrs. Hay, (arising from a mistake in her evidence) that she appeared in a bad light, as having visited her sister when living with lord Anglesey, although then ignorant of her marriage. That she visited during the cohabitation, and previous to the second marriage, I do not deny; but altho' she was ignorant as to the time and circumstances of the first, she acted under a belief of that first marriage. She was not able to point out the time and place, where that was celebrated, yet believed, such had been had. If this was a scheme preconcerted by Mr. Hay, that will account for the suddenness of the second marriage.

There is little doubt of the second marriage with Mrs. Donovan, yet that was as abrupt as this with Mrs. Salkeld: In the latter they waited, 'till the opportunity offered of the presence of a clergyman to celebrate it. It is said to be surprizing, lord Anglesey should have a clergyman at his table, and a prayer-book in his house: Yet in Ireland, and much about the same time, he is represented as having a constant domestic chaplain, without whom he could not go over to Wales. But supposing he had not a proper regard for the Book of Common Prayer, might not others of his family have had such? It is not material, from whose hands the prayer book came, it was brought by a servant, might have belonged to his lady. There have been two positive witnesses to this marriage, and every objection made to their testimony which ingenuity could suggest. Mr. Hay is represented as a pander to the sister of his wife: But let lord Anglesey's situation be adverted to; he was not in affluence of fortune. If Mr. Hay's designs had that interested cast, he would have looked out for an higher purchaser. If then this alledged scheme acted contrary to Mr. Hay's own interest, it is not to be supposed, he engaged in it. Of the two witnesses, produced in support of this marriage, one swore against her own interest; the other was a witness, who has no interest or concern, in what she has testified, beyond what truth required her to disclose. So far is the conduct of Mrs. Buntin with respect to her mother's fortune from being an objection to her credibility, it is the highest honour to her credit, and shews, that she acted for the sake of truth, not from motives

of interest. The other objections fulminated from the bar are pointed against her husband, who is dead, not against herself as was threatened. The first objection to him accrues from his rank in the French service; and the improbability of his being of high station in the Prussian Service. These things Mrs. Hay only mentions as hearing from others. Her character might have been impeached by witnesses, if the agents of the sitting lord could have discovered any such. From the nature of the cross examination they must have been apprized, that she was to appear here on behalf of one of the claimants; so that they had full time for an inquiry after her, as they found both time and opportunity to send for Ann Glover to England, and yet never procured a witness, who could affect Mrs. Buntin's character: but in one instance there appears a congruity between her testimony and that of another produced at another time, and who resided in a country far distant from her. Hautrey White's testimony is a strong proof, that what, Mrs. Buntin swore, was fact, as to the small sums lady Anglesey had and from time to time required from lord Anglesey, and shews the light, in which lord Anglesey considered her from 1742 'till 1746 or 1747. But attending to the present situation of Mrs. Buntin, (whatever the former might have been, and to which no proof is applied) she now appears to be married to a person of substance and character, and can have no inducement at present to tell, what is not strictly conformable to truth.

The other person, present at the second marriage of the claimant Richard's mother, is Elizabeth Knight; it has been thought improbable, she should be brought by lady Anglesey's sister without the invitation of lord Anglesey. But will your lordships please to consider the particular situation of lady Anglesey, abandoned by her father, with no mother to protect her; it was natural for her sister to procure her society and acquaintance: it has been objected to Mrs. Knight, that a person has appeared to her character, who is resident in Ireland; and that there is no witness from England produced in support of her credit. There are several answers may be given to that objection; the first and principal is, that the gentleman, who appeared, is known in his publick and private character as a man of veracity and deserving of credit; that it is not usual to bring evidence in support of a character until impeached; and if persons

were brought from England for the purpose expected, they would have been equally strangers to your lordships with herself. The objection to her credibility arises only from Mr. Carmichael's testimony upon another fact. I appeal to the account, he gives, as to her moral character, conduct, and credit. He did not speak positively as to the time, this lady is said to have inquired after the claimant Richard: he confessed, that if it had happened, before he knew Richard Annesley, it would have made but a transient impression upon his mind. If the facts asserted by Elizabeth Knight be true, those attested by Mrs. Buntin cannot be false; they have agreed in all material circumstances, and nothing more than a shadow of contradiction appears in their testimony. Mrs. Buntin speaks with greater precision and authority, because she was more interested than the other; and therefore Mrs. Knight, in the trifles in which she appears to differ from Mrs. Buntin, is not positive; she says only, that the ladies, she named, were present; but there might have been others, who escaped her observation. She cannot be certain, whether the clergyman was in an ecclesiastical habit, but is positive, that his appearance was that of a clergyman of the established church.

In the next place, to come to the christening, great objections are made to the sponsors present, major Carrington and Mr. Green, both friends of lord Anglesey; one his nephew: but will those objectors disclose, who were the sponsors for lord Valentia? have they been revealed, or their names even mentioned at the bar? if not, that must be, because they could not have done honour to his baptism, or credit to the reputed marriage of his mother. An objection has been taken to this clergyman, who solemnized this marriage in London; he is represented as a French officer, and an acquaintance of Mr. Hay's, but no evidence of that has ever been offered; his name appears to have been Gold. All the objection arises from the testimony of a popish dancing master, whom lord Anglesey took as a companion for four weeks to London, and who, never having heard of a clergyman of that name, ventured to say, that no such person ever existed; but when afterwards particularly asked, declared, that he knew not, whether there was or not. Lord Anglesey was in England, when he married Mrs. Salkeld; she and her friends were strangers to his family and minor titles: what end, he could have in giving a wrong title to his

his son by her, cannot be accounted for; but had that child been regarded as illegitimate, he could not have been honoured with any title at all. Elinor Fetherston does not go to the fact of the marriage, but as to the attention paid to the claimant Richard in his infancy as the heir of a nobleman; circumstances from other witnesses strongly corroborate what, she hath said. She left this child in the hands of major Carrington, and was afterwards informed, he had been taken away by Mr. Green. Green appears to have been at that time in England, and was one of the conductors of this child to Ireland in company with lord Anglesey. It is said to be improbable, that this child, if legitimate, should be committed to Mr. Carrington, while his mother was alive. But let your lordships attend to the situation of his mother at that time. This child continued fourteen months in the care of the nurse; within that period of time his mother, abandoned by her father, retired to Yorkshire; had separated from lord Anglesey upon account of his marriage with Mrs. Simpson, and therefore he would not trust her with the care of his child. It has been farther alledged to be improbable, that if this child was considered as the heir of the family, he would be brought without attendants in a stage coach. The testimony of the witnesses go contrary to that; Mr. Kavanagh says, he was met at Newport Pagnel, and there taken up and carried in the coach of lord Anglesey. Newport lay out of the road of the stage coach between London and Chester; and it is plain therefore, he could not have been brought in the stage coach, but in another and more suitable carriage; and lady Anglesey herself says, he was attended by a particular servant, who was kept in the house, and afterwards married in Ireland. Patrick Kavanagh avoids saying any thing of his own knowledge; but mentions the loose discourse of two persons, who in general terms informed him, there was a bastard child to be brought over to Ireland. It has been represented, that Green, who went over with the child, was the same person, who stood sponsor; but it appears, the sponsor had died, and this gentleman was his brother. And as to this Green's declarations, his situation is to be attended unto; he then was the only surviveing nephew of lord Anglesey, his nearest relation, interested in expectation of his substance, and therefore had some reason to represent, that the child, he was bringing over, did not appear as legitimate.

An objection has been made to the conduct of Mrs. Salkeld after her marriage, and that such marriage was not known to the friends of lord Anglesey: but she was not known in Ireland, never was there, neither did her connections lie in that kingdom, when it neither answered lord Anglesey's views, nor Mrs. Donovan's schemes, to promulge that marriage. But if they mean his friends in England, have they shewn, what kind of friends he had there? whether he was likely to have many friends, to whom he could or would introduce her? and this will account for this marriage not being more publickly known in either kingdom.

It has been said, that lord Anglesey considered these two ladies, Mrs. Salkeld and Miss Donovan, in different lights, from the different equipages he left with them; but his different situation in the two kingdoms will account for this particularity. In England he had no house. If a chaise was not proper for lady Anglesey, it was improper for a mistress. His situation with Mrs. Donovan was different; he lived with her in his mansion house, and did nothing more, when he went to England, than leave the regulating it in the same way as when present.

It is said, that Mrs. Salkeld never inquired for her child; but it appears, she did inquire from Mr. Carrington; and that from the information, she received, after he went to Ireland, she concluded him dead. In some time after the marriage with Ann Salkeld the children of the former supposed marriage with Mrs. Simpson were sent to her; from thence it was, that she came to the knowledge of a prior asserted marriage with the mother of those children. Thus finding herself the dupe of a person she conceived as married before, and exposed to the resentment of her father, she withdrew to the protection of her mother in a distant part of England, and therefore never assumed the title of honour, which she in that state would have considered as a reflection; and therefore it was, that no evidence could testify, that she had used the title in Yorkshire. In this situation this unhappy lady remained 'till her death; sickned of the supposed injury offered to her virtue, and died a martyr to that imagination. Was this the conduct of a tender wife sinking to death under the oppression of her husband, and preserving to the last an affection to the man by whom she suffered, or that of a mistress represented as debauched in her principals, and loose in her conduct?

About

About 1746 these two sons, the claimant Richard and the sitting lord, were together at the mansion house of lord Anglesey; but your lordships will observe in what a different situation; the one the son of a person not then existing, an orphan of tender years deprived of his mother, and of the protection of her friends, and the child whose family had thwarted lord Anglesey in the material object of his pursuit; the other the son of the rising favourite, whose influence, although gaining ground every day, yet was not then able totally to extinguish parental affection for the now claimant, until she had attained her full height of power, completed her schemes. The gradation of this influence appears strongly from the several wills, that have been produced. By the will in 1752 the children are mentioned in the same manner; the like mode of education is prescribed for both: If the object of lord Anglesey's care in directing this particular kind of education be considered, it operated in favour of one son no more than in that of the other; it had the same aspect as to both; and provided, that if Richard should attain a seat in this assembly, he should have the qualification for it. But in the subsequent will the influence had expanded; and there a difference is made; and in the last will, obtained in the extremity of age, the influence is stronger, and then the claimant Richard is made to depend on the paltry provision of one thousand pounds. Richard had no means to prosecute his rights but by receiving this legacy, under whatever words the cruelty of his father gave it him. It has been urged, that the claimant Richard lay by, after lord Valentia had obtained his seat in parliament; but consider, how this acquiescence was. He was early and continually exposed to every representation of the marriage of Mrs. Donovan in 1741, and that of the prior marriage with Mrs. Simpson, either of which would have cut up the root of his claim. Had he been early apprized of the circumstances of it, the marriage in 1741 had not been impeached till the opinion of the lords of Great Britain was had in 1772; and then Richard put in his claim, and that was the soonest, he could have claimed to these honours.

Great use has been made of what is termed his ingratitude to lady Anglesey, by now claiming his seat amongst your lordships; and it is really surprizing, that he should intend to part with his inheritance for so poor a mess of pottage, a trifling

ing lease, and the punctual payment of his annuity, which he had a right to recover, being the only value given him for his birth right.

A report of the attorney and solicitor general of Ireland as to the right of lord Valentia to his seat in parliament, has been mentioned, but Mr. Richard Annesley was no party intervening in that report. I have the greatest respect for that report, and for the integrity and ability of the makers of it. But your lordships must recollect, by what means that report was obtained. It is not made upon evidence delivered in publick; and upon a cross examination, where the whole facts came out; but upon suggestions of affidavits, prepared by one party only; and the person making an affidavit is not sworn to deliver the whole truth, he knows; but only to verify the truth of the suggestions of that affidavit; his examination goes no farther than the matters in the affidavit; and whatever his knowledge of facts, that would make for the contrary party, may be, he has no power to do it; and this appears, from what Mr. Tottenham has mentioned; an affidavit has been obtained from him as to a particular fact, and yet that affidavit has been mentioned to his credibility, and will plainly shew, how little reliance there is upon affidavits prepared by one party, and which are in fact the words of the person, who chuses to produce it.

The counsel for the sitting lord have further suggested, that the claimant Richard Annesley has declined entering into circumstances as to the original marriage, under which he claims; and that lord Valentia had entered into too many, and shewed him the danger of being so minute. But this could not have been his motive; for Richard Annesley's case was stated, and the circumstances fully opened, before that of lord Valentia was in any manner gone into.

It has been mentioned, that no person of character and reputation has been produced by any claimant, to shew there was no reputation of a marriage between lord Anglesey and Mrs. Donovan before 1752; but Mr. Tottenham and Stopford Fielding have gone directly to that point.

There is a further objection made from the last will of lord Anglesey; it has been represented as the solemn act of a man just entering into an account with his creator, and on the confines of eternity. Such let me allow it to be. By this solemn act he has thought fit to intitle Richard his natural son. But this

this is matter of opinion only, not of fact. There is a law, which allows the legitimization of prior children under a subsequent marriage. That however is not the principle of the common law; but if a peculiar cast of mind, course of study, or the artifice of others, had put the canon law into the hands of lord Anglesey, he would naturally have entertained a notion, that the subsequent marriage had legitimated the prior children; and might in his will have honestly made a declaration of that belief. In cases of murder, I confess, the last words of the dying person are allowed of. But there the presumption is, that no man so near the verge of eternity will casually occasion thereby the death of an innocent person; and besides, a man in such situation speaks to a positive fact, of which he unhappily has been too good a judge, and does not speak to matter of opinion only.

It has been said, that Mr. Annesley of Baldyfax, (and especially in obtaining the receipt from Mrs. Donovan, that has been mentioned in evidence) acted under a belief, that a marriage had been celebrated: but no such thing is to be collected from his conduct or declarations: the utmost that can be inferred from both, is, that he was pleased with having means to counteract the pretence of a marriage he had heard of, if it ever should be afterwards attempted to be set up.

The nature of the evidence of Shepherd French will only shew, the difficulty there was to procure proper society for lady Anglesey, at the time when it was thought proper to divulge her marriage; and then in what state must she have been regarded before, when no other visitors could be found for her, when her dignity was to be exhibited to the world, but the wives of the tradesmen of Ross, who might be justly called the quality of Brentford.

Mr. Fielding's testimony has been objected to, because he cannot recollect every circumstance minutely, that happened in the course of a long examination and cross examination, and did not refresh his memory by the minutes of the proceedings before the lords at Westminster: had he done this, the objection to him would have been urged much stronger, by observations that he was forced to have recourse to memorandums to enable him to give his testimony here.

Elizabeth Smally was produced here and in England to prove a pocket book, she found with Kavanagh at his death; and upon a perusal of that pocket book there appears an entry of marriage between other persons,

at which Charles Kavanagh was present; and of which he has made that particular entry to enable him to support it by his testimony when called upon for that purpose; but none such appears of lord Anglesey's.

The consequence of Mr. Tottenham's testimony has induced the counsel for the sitting lord to make every objection to it; but in answer to that I will only apply to his character and credit, and consider his whole conduct thro' life, and his behaviour in delivering his evidence. From his testimony it appears, a letter has been produced to him, which he has treated with harsher terms, than I shall use. He informed your lordships, that an alteration in the date had been made. I should not take notice of this, but for an observation made on the certificate of 1741; that practice has been used in altering the date of that certificate, and therefore it is not improbable, that the same hands, capable of altering Mr. Tottenham's letter, had also interfered in altering the date of the certificate. It is said, Mr. Tottenham acknowledged the title of lord Valentia; but the letter is addressed to lady Anglesey, and relates to disputes as to her only.

Thus have I endeavoured to lay before your lordships such circumstances, of and observations upon this case, as had occurred to me, and seemed untouched by the gentlemen, who preceded me in speaking to this case; and these, however crude, I have ventured to submit unto your lordships, convinced that you will excuse even the modest voice, that attempts to clear up any part of an affair of so great consequence and expectation.

Mr. Prime Serjeant for Lord Valentia

AT length this important cause draws towards a decision, in which your lordships have shewn as patient and dignified attention, as can be equalled in the annals of Athens, or Rome, or even of Britain.

If the strongest terms of ridicule and reproach, which the warmth of imagination and the severity of language could throw on any cause, can be supposed to have made any impression upon this noble assembly, the advocates for lord Valentia must be heard with some degree of prejudice and distrust; and if the fine flights of fancy, the elegance of language, the brilliancy of wit, and the piquancy of humour may claim the victory, we are beaten quite out of the field: The coun-

tel for the claimants have spoken with the greatest ingenuity, but seem to me in one instance to have departed from the laws of their country; they have made use of the torture; they have put the evidence on the rack, and endeavoured forcibly to extort confessions from it, which voluntarily it never would have made; I shall endeavour to replace and unite the torn and disjointed limbs, and to let your lordships hear its real and natural language and sentiments.

The evidence has been stated to your lordships with great ability and in the fullest and most candid manner by the gentleman, who has preceded me at the same side. It is my purpose to lay the case before your lordships with the utmost plainness and simplicity. I consider myself at this bar as a minister of justice assisting only the investigation of truth; that is the true and respectable idea of the character of an advocate; I should be unhappy indeed, if any thing, I shall say, was to mislead the judgment of any one of your lordships: the opposite counsel complain of pathetic representations; they complain of their own arts.

The fact to be proved by us is most probable in itself, namely, that a nobleman in the decline of life, possessed of great estates and high descendable honours, with a passion for a son to succeed to his titles and fortune, and an aversion to his successor, should marry a handsome young woman of good family, tho' of no fortune, by whom he had at that time a certainty of having issue. That he should resort to the park and pick up for a wife, the sister of a kept mistress, would have been improbable indeed, but that he should gather a rose, that bloomed in his own garden, is surely most natural and probable. The fact to be proved on the other side is most improbable, consists of crimes of the most atrocious nature, of perjury and forgery, of which the strictest proof ought to be required, and where no presumptions are to be admitted against the persons accused. Whenever a fact is probable in itself, slighter proof will satisfy; but if improbable and importing a criminal charge against any person, the strictest proof will be required.

This case must be determined by the laws of evidence, which are of the utmost importance in our constitution. The preservation of the properties, lives, and liberties of the subject depend upon the observation of those laws, in which your lordships are peculiarly interested; the peers of these realms

have in former times suffered more by the violation of them, than any other body of men; they require proofs by witnesses, or writing, or strong and violent presumptions; but light presumptions and surmises are totally disregarded by the generous law of Britain and Ireland, which rejects and despises suspicions, as a rule of conduct fit only for the regions of despotism, where clearness, precision, and certainty are unnecessary, and where the estates, lives, and honours of the subject are conjectured away. If this great barrier of common security, the determining by rules of evidence, established by the wisdom of our ancestors and the experience of ages, is once overthrown, the dearest rights of men would be no longer protected by the laws.

Having laid down the clear and important principles that are to govern this case, I shall proceed to consider the evidence of the marriage: but in one respect I shall take a different method from the other gentlemen. I will not begin with the testimony of lady Anglesey; I will first go thro' every other material part of the case, and then bring her testimony to stamp the certain impression of truth on the whole.

The first part of the case to be considered is the certificate of the 15th of September 1741. I am glad to find, there is one point, on which the gentlemen of the bar are not to waste your lordships time by debate; we are agreed in one material particular, that a certificate of marriage is evidence, but not conclusive: that has been the concession of the first gentleman, that spoke, and I do not desire to carry it farther; a certificate of marriage in the hand-writing of the clergyman, and signed by him, is some evidence of the marriage; we have proved the certificate to be all the hand-writing of Mr. Neil, a clergyman of the church of Ireland, who took two degrees in our University; the certificate would have been evidence without any attestation; the names of the two witnesses are material only to shew, that this writing is not to receive credit, because their names are forged; but here the proof, that their names are forged, lies on the claimants; they are to prove it by positive witnesses, of which there is no attempt, or by circumstances.

Before I enter particularly into the consideration of the certificate, give me leave to observe, that this case begins with circumstances, which naturally lead to the event, that happened, and are not to be accounted for,

if

If a marriage was not then intended. Lord Anglesey had returned from Wales immediately after the death of his former wife, and some few days before the marriage in question, with his chaplain Mr. Neil; immediately upon his coming to Ros he left it in haste, did not wait for his equipage, but went with Neil to Camolin-park in a one-horse chair, which was never used by his lordship in any other instance; It appears by accident from a witness, not produced for the purpose, that Nixon Donovan was at the Park at that time, and Charles Kavanagh was constantly resident there as domestick steward to his lordship.

The consideration of this certificate divides itself into two parts; first the intrinsic evidence of the certificate itself; secondly the extrinsic evidence, or the proofs by witnesses or circumstances. Examine it first under the head of intrinsic evidence; it will appear manifestly by looking thro' a good magnifying glass, that the body of the certificate and the names Laurence Neil, Nixon Donovan, and Charles Kavanagh, were written with a split pen, the nib of which divided in making the strokes; I have on paper the very letters, that appear to be so written, and can point every one of them out, particularly in the name Charles Kavanagh; but it would not be proper, when I consider, before whom I speak, to waste your time by observations on lines and letters. If therefore it is a certain truth, and on this I would put the event of the cause, that this was all written with such a pen, consider the necessary inferences from thence; they are these. Can it be thought, that a man should sit down to commit a forgery with a split pen in his hand, with which he could scarcely write, which could not draw one fair line, but disappointed the intent of the writer in every stroke? I should think it as probable, that a man intended to act the character of harlequin in a pair of jack-boots; or that a painter, wishing to draw a striking likeness, should lay aside his pencil, and take up the trowel of a mason. To believe it a forgery then we must suppose, that to make it like an instrument was used, that must necessarily prevent the resemblance; this circumstance appears to me decisive against the imputation of forgery. Another part of the intrinsic evidence is, that the paper was folded up, before the ink was dry, and by turning one part of the paper upon the other, the writing was blotted in several places, and the impressions of parts of the letters on the

lower part of the paper are visible on the upper: If this was a forgery, great pains must have been taken to make it like, but least the resemblance should be too exact, time is not given for the letters to dry, but it is folded up when wet to efface the resemblance; two or three minutes of time, a grain of sand, or a piece of blotting-paper, are not to be wasted on an instrument, that is said to have been contrived to impose upon courts of justice, and to deceive posterity. Lady Anglesey mentions, that she was not sure, whether Neil gave her the certificate after the ceremony; she rather believed not, but that he handed it to lord Anglesey, who sometime that day, but not immediately, gave it to her; which accounts naturally for putting up this paper, before the ink was dry; this young woman must have thought this paper so precious a deposit, that she would have put it up with the greatest care and caution; but lord Anglesey had probably not the same attention to it, and might have put it hastily into his pocket. Attempts to fabricate are ever attended with circumstances of deliberation, art, and design, but this has every mark of a writing written in haste; blots, blunders, and alterations in letters, either finished or begun as other letters, appear clearly to have been mistaken by accident, and afterwards set right *currente calamo*. All these little inaccuracies shew, that this was not a writing framed to impose upon the world, or of the authenticity of which, it was supposed, any doubts could be afterwards entertained.

If this was all artifice, it was deeper policy than that of the elder Brutus, who was said to have carried on treasonable designs under the countenance of an idiot.

A further intrinsic circumstance appears from comparing the two certificates of 1741 and 1752; they have been equally in use, yet the paper of 1741 is worn to pieces, tho' of a stronger and coarser kind than that of 1752, upon which time has scarcely made any impression; this is naturally accounted for from the difference of time, and the fact of keeping the certificate of 1741 in different places, sometimes in the robings of a gown.

There is also a difference in the colour of the two papers; the older from lying by longer is become darker than the other; the name Nixon Donovan to the certificate of 1741 is written by a hand not used to business, and not formed, and is therefore likely to have been written by a young man, such as Nixon Donovan is described to have been, who

who had lately left school and gone into the army.

But it is said, the name Charles Kavanagh is unlike several of the exhibits. There is no dissimilitude, that cannot be accounted for by the instrument made use of, a striking instance of which may be found in the last letter of his surname; the difference objected is, that Charles Kavanagh's character is generally of a sharper kind, but a split pen will at once account for that difference. There are some of the exhibits, on which the name Charles Kavanagh is written several times on the same sheet of paper; compare one with another, and you will find some of the signatures on the same paper, tho' all acknowledged to be his hand writing, as different from others, as the name to this certificate is different from any one of those exhibits, to which it is least like; there is a similitude in the general character, tho' some letters may be unlike; nothing is more different than the writing of the same man at different times; give me leave to refer to your lordships recollection, whether you have not been some times at a loss to discover your own character, when many years have intervened since the writing; gentlemen of the bar have in some instances not known their own writing, when their opinions, given at a great distance of time, have been laid before them.

An objection has been much relied upon, that the paper, on which the certificates are written, is the same; but it is clearly otherwise; the coronets and wires are totally different, and there is no doubt, that the paper is different. It is objected that a rasure appears in the date of it; I cannot agree to that assertion; there is a letter altered, but not struck out, and there is not the smallest appearance of a rasure; the figure, 5, was written in haste, and not upon a rasure; the letter, d, is clearly visible under it, which was plainly a mistake; and not waiting to erase that letter shews the fairness of the certificate; there is such an interval between that and the last letter of the preceding word, as proves, that there must have been more than one figure in the first writing of it; and if the date was the 22d, or 23d, the only double figures to which the, d, could apply, it would have equally answered the time of lord Anglesey's being at the Park. This alteration in part of a figure, which appears to be done, as the pen run along, fortifies the several observations, that I have made on the intrinsic evidence of this paper, which

on its face has every appearance of fairness and innocence.

The next question is as to the extrinsic evidence given in support of it; and first, it must be taken for granted, that the body of the certificate, and the signature to it, are fully proved to be the hand-writing of Laurence Neil; his nephew proved it, and the counsel at the other side did not think it necessary to cross examine him; Mr. Masterfon proves, that Neil publicly and solemnly acknowledged it, and declared the truth of the facts certified by it, before a great number of persons, six or seven of whom have signed the second certificate, which recites the acknowledgment and declaration; and the hand-writings and deaths of those persons have been all proved, Masterfon excepted, who has proved the second certificate. The objection, made to our not proving that the certificate of 1741 was the hand-writing of Neil, shews only, that it is the intention of the claimants to make objections to matters the most clear for the purpose of throwing every thing in this cause into confusion and uncertainty; there is no evidence attempted to be given, that Neil ever contradicted this acknowledgment of the truth, of what is contained in the certificate of 1741, except by one witness, the noted Elizabeth Smally; she says, in a month after the marriage Neil came to see her at her house at Bray, and said, "I have married your sister; to whom, said I?" "to lord Anglesey, says he. Good God," said I. We made out a certificate, says he, I wrote the body, and Ians and Cornelius Donovan put the names; it was brought down at the publick marriage; lord Anglesey asked, is this your hand-writing? yes, said I, I will give my oath of it. But would you give your oath, that you married them in that year? No, not for the world." This conversation, it seems, was without the least reserve or promise of secrecy; and after she had heard this story from him, she made an affidavit, that he was an honest man, and of good morals; but pretends, at the time of making her affidavit that she did not know, what the matter in dispute was; and the very certificate, to which, she formerly swore, Cornelius Donovan had forged the name of Nixon Donovan, she now swears, is not the same, that was produced to her on her examination in England; she is contradicted by several witnesses of credit, has grossly contradicted her former testimony, and is now admitted by the counsel

fel on all sides to be a perjured witness.

I only mention her evidence for the purpose of observing, that where ever there is a false witness, whose evidence appears to be feigned to overthrow any particular fact, it sets up the evidence on the other side beyond contradiction. It is a rebellion (if I may use the expression) against truth, which establishes the sovereign more firmly on the throne. But it is asked, whether lord Valentia will object to his own witness? and it has been confidently said, that he owes his seat to her testimony. Consider the subject matter of her affidavits; it was natural for lord Valentia to examine her to the time of Kavanagh's death, as Kavanagh died in her house; is it supposed that he owed his seat to the proof of the time of Kavanagh's death? It appears, that Neil married her, and it was probable, that she could give some account of his character: her affidavits in favour of lord Valentia related only to those two particulars, which were not material, and in which she happened to swear truly: but she is produced by Mr. John Annesley to the decisive part of the case, and, when examined for him, appears to be grossly and willfully perjured. They found, that this woman had made an affidavit for the noble lord; the report of the attorney and solicitor general might have informed them of that fact; and their taking up one of our witnesses, and the figure she makes in their hands, is most remarkable. Tho' no advantage is now desired to be taken of this woman's testimony, yet the first doubt, entertained of the title of the noble lord to the English honours, arose from her evidence.

I am now warranted to say, that Neil never contradicted his acknowledgement of the certificate and marriage of 1741, tho' he lived eight years after such acknowledgement, and nineteen years after signing the certificate, and that he never uttered a word against the truth of the facts mentioned in it, tho' he is said to have been an indiscreet man, who now and then took too free a glass. If a good man, he would not have kept the secret of a forgery; and if a bad man, he would have revealed it for some purpose beneficial to himself; and it is not to be credited, that a man in possession of such a secret should have lived wretchedly poor, and been contented with a miserable subsistence of twenty pounds a year, when he had an earl with a great estate in his power. His poverty, after the great secret of

this family was committed to his breast, and his being contented in such a situation, surpasses all belief; but the character of this clergyman exempts him from the suspicion of having been guilty of so atrocious a crime. Mr. Lambert, John King, and doctor Mills, speak highly of him in the years 1747 and 1748 as a good moral man, an eminent reader and preacher, and as a curate much in the esteem of his parishioners; and that Mr. Buckley, the rector of Rathdrum, was very delicate in the choice of curates, had rejected several from not having been sufficiently assured of their morals and good conduct, and employed him from his good character, which must go back to a distance of time antecedent to 1747, and does not confine the evidence to nine months only of his life, as has been said: the single witness against him has given an account of him for one night only, and by proving but one act of indiscretion they have established his character. But it seems, there is no fact or circumstance in favour of the noble lord, that is not to be done away by some ingenuity. His conduct as a curate is said to have been all hypocrisy; but it does not rest there: Mr. Masterfon says, he had the reputation of an upright honest man; and that no body could impeach him but for being too fond of a glass; which will make, what is said by Mr. Masterfon and Mr. Tottenham, in some respect consistent. Mr. Masterfon probably was present at the public meeting at Camolin park, or he must have heard of it; it made no impression on his mind, but he gave him a good character. Mr. Tottenham gives an account of dining with Neil at Camolin on Holy-rood day, and mentions an act of levity and highly reprehensible: but surely a man may have a good moral mind, tho' he was guilty of such an indecorum. But what was it? They had drank freely, Mr. Neil was in liquor and danced indecently with a blackmore boy. Mr. Tottenham indeed said, he was not intoxicated, he was as sober as in the morning. To say a man had drank all the evening, and to draw the exact lines of that man's understanding, particularly when you are a stranger to him, requires uncommon sagacity: that opinion of Mr. Tottenham's was ill founded: The man could not have the understanding, he was possessed of in the morning; but must have been intoxicated in a smaller or greater degree. The opinions of men are variable. What do the facts say?

You cannot want information, that he was intoxicated, considering the facts Mr. Tottenham swears to; possibly he was not so much affected, as Mr. Neil was, but from the circumstances he has stated, I should suppose, he was himself affected with liquor. Would a man of Mr. Tottenham's character suffer a gross indecorum to pass in his presence without animadversion? would he endure it? It is impossible therefore, Mr. Tottenham can be sure of his opinion of Mr. Neil's sobriety at the time of this transaction. I must by circumstances combat his and every man's opinion, that appears not well founded.

He does not recollect the name of any one of a large company, who were that day at Camolin Park, nor the time, or whether it was before or after the marriage in 1741 or 1752. Where a man, who gives an opinion, cannot recollect the circumstances of the fact, from which he formed it, his opinion must have less weight in such a case; and the time is material; as it appears, that in 1752 Neil was so infirm from the gout as not to be able to stand without difficulty. I acknowledge, Mr. Tottenham does say, Mr. Neil had a most infamous character: but he did not know the man, never was in his company before, nor resided in any parish, where he was curate, and gives no reason for his belief except this indecent and ridiculous incident about the blackmore boy: the character, that Mr. Tottenham might have heard of him in the county of Wexford, can be easily accounted for; he was chaplain to lord Anglesey, when Mrs. Simpson was discarded; from having been in his lordship's confidence, tho' unconcerned in that affair, he probably shared the odium, that she and her family raised against that lord and those connected with him: some of that lady's descendants appear to have tongues and pens, of which they have made a pretty free use; and even at this very hour the ashes of the dead are to be disturbed to injure the cause of the living, and the character of Neil is the topic of every news paper; is it not probable, that the same industry had been used against him when living, that now pursues his memory? It is said, that from his having been chaplain to lord Anglesey he could not have been a good man: but a more moderate inference may be drawn from that circumstance, namely, some of the abuse, directed against lord Anglesey, must naturally have fallen upon Mr. Neil's head; and this observation may account for the reports, Mr. Tottenham might

have heard to the prejudice of this man. But the evidence in his favour is not of his conduct upon a night of festivity and debauch, but in the exercise of the most important duties of his function. Surely this will have more weight with your lordships, than evidence of what he did, when he was not master of himself, and had not his reason to guide him; and however lightly the character of a poor curate may be treated, yet it will have due weight with your lordships, when you find him attesting one of the solemn acts of his function. There are four witnesses produced by lord Valentia, the cross examination of one of the claimants witnesses, and the affidavits of several persons who are dead, all in favour of Mr. Neil's character. It is objected, that we have not inquired after his conduct at St. Luke's parish, where the counsel for the claimants tell us, he was curate; we would have inquired there, if we had known the fact. It must be presumed, that they made the inquiry, and that it did not answer their purpose; for the parishioners of St. Luke would probably have given as good a character of him, as the parishioners of Rathdrum. A further circumstance in favour of Mr. Neil's character is, that he was considered by his brethren as a proper object of their compassion, and was supported by the contribution of the clergy of his diocese; which shews not only, that he was not a profligate man, but at the same time proves his poverty and distress.

The acknowledgment of the truth of this certificate by a clergyman, at that time so infirm as to be obliged to sit, and then an old man, and his persevering in that acknowledgment to his death, must have great weight in a question of legitimacy, and in such a case is evidence as much, tho' in legal acceptance not so strong, as if he had sworn it. If we went no further into the proof of this certificate, than by proving the before mentioned several facts and circumstances, together with a cohabitation for many years agreeable to it, we apprehend, it would be sufficiently proved in every court of justice, and your lordships will investigate this cause, and decide by the same known and established rules. The proof then against the certificate lies upon them; they are to prove the names, Nixon Donovan and Charles Kavanagh, or one of them, to be forgeries; and it is not, as we apprehend, necessary for us to go farther. But we have gone farther, and
very

very full evidence is given of the hand writing of the two witnesses.

But before I go into the particular state of the evidence, I will premise, that if the hand writing of Nixon Donovan was not proved, it would not be matter of surprize. He was a very young man, in the army, and died about nineteen or twenty years of age; and a great distance of time has intervened since his death. How improbable then, if a forgery was the scheme, that his name should have been forged! It must have been very difficult to have got a precedent, from which to imitate his writing in the year 1752; for from his situation in life he could not be supposed to have written a great deal. The forging the name of a witness, whose hand writing could scarcely be proved at the time, when it should be necessary, would have been laying insurmountable difficulties on themselves: It would be the cunning of children, who often hide so carefully, that they are seldom able to find.

Cornelius, his brother, has been produced, and said, he believed, that they were married in 1741. He must then believe the certificate of 1741, and that the name Nixon Donovan was written by his brother; and yet he is not produced to the hand writing of Nixon Donovan, nor is Richard Donovan, the other brother: it is accounted for, why they cannot prove it; but their not attempting to do it removes every imputation of a scheme in this family to establish forgery by perjury. Is lady Anglesey the only person of her family, who would swear untruly? I should rather believe, that if all her family were so disposed, she alone would not depart from the truth. But it is objected, that it is improbable in itself, that a young trooper should be a witness to this marriage, and that the lady's mother was not: they have first informed you, she was a woman of indiscretion, not fit to be trusted; and then wonder, that lady Anglesey, a woman of good sense, should not have trusted her.

Nixon was a very fine young fellow; the earl had taken a great liking to him, and invited him to live in his house, where he continued to his death in November 1741. Upon whom could lord Anglesey depend more than upon this young man, for whom he could have so easily provided? Lord Anglesey had been a military man himself, and probably took up this young soldier, as a man of spirit and honour, upon whom he could depend. It was natural, that lady Anglesey

should have taken a liking to a young brother, but a little older than herself, and should have placed a confidence in him. It does not appear, that the mother, or any of the family, except Nixon, was at Camolin park at that time. It has been mentioned, that there was a very respectable family in the neighbourhood, to which she was allied: but it does not appear, that lord Anglesey had any connection with that family. None were so likely to be called upon as Charles Kavanagh, a man of good character, and much regarded by lord Anglesey, and this young man who was in the confidence of both my lord and lady.

The first witness to the hand writing of Nixon Donovan is Anthony Ryan; Ryan went to school with him for a year and a half, lived in the same town, and was in great intimacy with him; was afterwards in 1737 or 1738 in the same regiment and troop with him, constantly kept up an acquaintance with him till his leaving the regiment on furlow in August 1741, and accompanied him part of the way. He often wrote in a copy book of Nixon Donovan's, and Nixon Donovan often in his; and there was a book, that the master gave him on his leaving school, containing, as he says, all his little learning; which is common among the lower people: Nixon Donovan had written his name in this book; Ryan kept this book, which had also some other writing of Donovan's in it, for fifteen or sixteen years after his death, and had his hand writing in his possession to the year 1756 or 1757. Ryan was called upon to make an affidavit in 1763; consequently he had seen that book six or seven years, before he made the first oath as to his hand writing. This man has been uniform in the same evidence for several years; his affidavit and his two examinations are consistent in every part; many circumstances to make his evidence probable; their learning to write together, their intimacy, living in the same town, entering in the same troop, the time of the furlow, and of Donovan's death, and the copy book. There cannot be clearer evidence than that of the hand writing of Nixon Donovan by this man; for it is not only proof of the hand writing by similitude, but the strongest reasons have been assigned for his knowledge, that can be given by a man for knowing the hand writing of another: so far then there is no doubt, but that this man must have satisfied your lordships, that it is the hand writing of Nixon Donovan, unless there

is some objection to his credit, or to the nature of the evidence he has given. The opposite counsel have been very ingenious, and strained hard for objections. The first objection is, that he first looked on the back of the certificate, and swore only to the initials of his name, which he had indorsed on it; but he had indorsed the initial letters of his name, when he made his affidavit to shew the indenture of the paper, to which he referred in his affidavit; and this appears to have been done by the desire of Mr. Mark White, who was a gentleman of known probity, and one of the principal agents in this kingdom; and was no more, than what is usual and proper on such an occasion. But it is said, he could not read the certificate. I deny it. He read it with difficulty indeed. He was in a state of trepidation; his mind as well as body must have trembled after so long a cross examination; and he informed your lordships, that he had lately a disorder, and was in a bad state of health; which seemed probable from his appearance: his eyes were streaming, during the whole time he was giving his testimony; he did read a part of the certificate, and your lordships humanity was touched, and desired, no more should be read. He not only could read this certificate, but he also read a very ingenious device of some body's, who shewed him the name Nixon Donnellan, in hopes he would have mistaken it for Donovan, but he read it truly. It is said, that this man does not know how to spell the name; but your lordships will recollect, how many instances there are, where a man writes a letter even to an old acquaintance, and gets an answer with his name spelled different from the signature; if that happens to a man writing at his ease in his chamber, no wonder Ryan should in that state of fatigue and trepidation make a mistake. But what was that mistake? He left out the (a) which is very common among the lower people in this country; Donovan is a very Irish name, and he wrote it as it is vulgarly pronounced in this kingdom. I can only say as this witness, that there is not a single objection of weight to any part of his testimony; every strain for an objection has been made to no purpose; and his testimony is strongly corroborated by many concurring circumstances. Mr. Annesley of Ballyfar, who will appear to be our only real opponent, cannot now be admitted to object to the credit of Ryan. This gentleman had taken out copies of the affidavits before the attorney and solicitor ge-

neral of this kingdom, and must have known, that it was partly founded upon the testimony of Ryan. There was a report in favour of the noble viscount, who in consequence of this report took his seat six or seven years ago without any objection. I may say then, that there was a time, when Mr. John Annesley believed this man, and that for seven or eight years; and therefore ought not to be attended to, when he says, he does not believe him now. Another objection is, that this man was asked, who was at school with him at the same time with Nixon Donovan, that he named two persons in the county of Wexford, Inman, and Plummer; and it is objected that in all this time, we have not called upon those persons; but what occasion have we to resort to more, if we have established the hand-writing of Nixon Donovan by one witness? Why did not they call upon them? When a man tells you, who was present, who can if called upon, give the same or a different account, instead of being an imputation upon him it is a strong circumstance to establish his credit. Without going farther therefore than the testimony of Ryan the hand-writing is fully proved. One witness to a hand-writing will do as well as one thousand; no more than one could from the nature of the case be reasonably expected, when the man has been dead above thirty years; Ryan then by every rule of evidence has established that hand-writing. If this then was really the writing of Nixon Donovan, who died in November 1741, it never could have been a scheme formed to impose an heir born in 1744 upon this noble family.

Another witness has been produced, and whether he shall be allowed to have proved that hand-writing, or not, is a point, the noble lord is not concerned in: but this man, Darcy, also concurs with Ryan, and is a second witness to this hand-writing. I confess, he mentions, he was at school with him in 1733, an early period; but he afterwards saw him write in 1738. This man made no affidavit for the attorney and solicitor general, but was taken to England to be examined before the Lords: and this is relied upon as a strong objection to shew, he was a made witness; but they were looking out for his school-fellows, who had learned to write with him, and this was the most probable method of proving his writing. The certificate was in England at the time of their finding out Darcy; he said, he had been acquainted with his hand-writing, and believed, he could prove it;

it; they took him over to England; on seeing the certificate he said, he could swear to the signature of Donovan, and accordingly proved it fully there. But a precaution was used on his examination here by producing only the name Nixon Donovan to this man; and keeping every other part of the paper covered. I will state the material passages of his evidence; he says first "it is his hand-writing to the best of my knowledge;" then, "it is very like, I do not know, I cannot positively say, I saw a perfect certificate in London, this is not like that;" he then viewed the name again, and said, "he believed it to be his hand-writing;" the intire certificate was afterwards shewn to him, and he said "he believed it to be his hand-writing." Upon its first appearance he believes it to be his hand-writing, he then doubts, and gives his reason for doubting, and thought, there might have been some artifice. If any of your lordships was to see the name and hand-writing of your most intimate acquaintance upon a piece of blank paper, you would find it difficult to depose to it. The lights and shades of the other letters give it a kind of keeping, if I may use a figure from painting, which it has not when upon a piece of blank paper. It is said, this has contradicted lady Anglesey's evidence; Darcy only said, he could not be positive, which is very common in the proof of hand-writing; the evidence has been called for, and was read from the notes; and it appears, that he has three times said, he does believe it to be his hand-writing, but does not once say, he believed, it was not, and therefore confirms instead of contradicting lady Anglesey; but when it was shewn by reading the evidence, that it had been mistaken, it was then said we only differed about words; we do so too often, but this seems to be the substance of the case; the doubts and hesitation, he expressed, ought to give a more favourable impression of his veracity, and he naturally doubted from seeing the name single, which was a reasonable circumstance to make him doubt.

I have now done with the evidence as to the hand-writing of Nixon Donovan. I have no evidence to state on the other side as to this part of the case; they have not produced one witness to prove the dissimilitude; and yet affect to wonder, that we have produced no more than two to prove the similitude. The difficulty arising from the youth of the witness, and from the length of time since his death, makes this evidence stronger,

than is often met with in a court of justice in similar cases.

The next extrinsic evidence is to the hand-writing of Charles Kavanagh; Darcy proved it, and that he wrote variously from cramps in his fingers, and taking a glass over-night. The next witness was Patrick Byrne. He has not made any affidavit, and was not examined before the lords, tho' he was taken over to be examined; but gives a satisfactory reason, why he was not produced; because he was told, a learned lord thought the hand-writing sufficiently proved. This witness was thoroughly well acquainted with his hand-writing from 1738 to 1746; and says, he drank over-night, and was fond of drams in the morning, which made his hand shake. The objection to this man's evidence is this; he mentioned tickets, which, he said, he received from Charles Kavanagh every week for three years and a half for bark, and those tickets are not produced. But when he came to settle for his rent, and obtained credit for those tickets, he must have given them up; and as to the noble viscount's not producing them, is there any instance of such tickets or notes being kept by any man or any family for a great length of time, after they are given up? They acknowledge, that this witness is acquainted with the hand-writing of Kavanagh; for they have produced several exhibits to him, which he has proved for them. The next witness is William Smith; there is no objection to his credit, except his not producing the receipts for hay and corn, which he mentions in his testimony, that his father delivered for the use of lord Anglesey; the last answer given will also apply to this objection. The last witness to this hand-writing of Kavanagh's is Cornelius Donovan, who appeared a rational, recollected, consistent witness. He is so hard for them, that they only say, he is lady Anglesey's brother; he proves Kavanagh's hand-writing, and has often seen him write; this is a fourth witness to the hand-writing of Kavanagh; two of them I acknowledge not produced in England, and why not, has been clearly accounted for by one of the witnesses. But it is objected, why not examine persons of fortune and consideration to his hand-writing; because he was not an agent, who gave receipts for rent, he was only a domestic steward, and therefore those persons, who were conversant in the family, are the best evidence. But what puts this part of the case out of doubt is, that this is a very different question

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between the noble viscount and Mr. Annesley of Ballyfax, from what it was with lord Mulgrave; for Mr. Annesley in effect admitted the hand-writing of Kavanagh before the attorney and solicitor general. But it is asked, how could Mr. Annesley know the artifices used against him? But Mr. Annesley had eyes to read the certificate, and had witnesses conversant with the hand-writing; the nature of the thing speaks it, that he read the name Charles Kavanagh to that paper, and that those, who were acquainted with that hand-writing, had also read it; and the whole turn of the affidavits on his part is to lay an imputation upon the credit of Charles Kavanagh, supposing him to be a party to the scheme and fabrication. The seeing lord Valentia take his seat in this house, the acquiescing for many years 'till the noble viscount enters into an alliance with another noble family, and the tender pledges of this union become interested in the event, the saying before the attorney general the name was Charles Kavanagh's writing, before your lordships that it is not, can this be endured? This therefore would be evidence against him, tho' it was not against any other man in the world. These four witnesses must be taken as unexceptionable, giving the strongest reasons for their opinions, and bringing a variety of probable circumstances, leading to that truth, which they depose; a single witness has not been produced to the contrary: the evidence is all on one side, and nothing to raise a difficulty; if I have answered every objection, that has been made to the intrinsic evidence, this hand-writing of Charles Kavanagh is more fully proved here, than it was in England; and therefore the certificate has been read here, tho' not in England. I have rested longer on this part of the case, because if this evidence is well founded, and the certificate of 1741 is proved, or (I will go farther) is not proved to be a forgery, what has passed in another place, is intirely out of the question here.

The next consideration is, supposing the certificate of Sept. 1741 intirely laid out of the case, whether there is sufficient evidence of the marriage or not; independent of this certificate the marriage is fully proved, and then it is not material, whether such certificate ever existed. Even if it appeared, that this was a forgery, it does not determine against the marriage; for in the case of the Douglas peerage it appeared, that there was

a forgery, and yet the decision was in favour of the birth. Independent of this certificate the proofs are reputation, and the declarations, and solemn acts of lord Anglesey for a great number of years during a continual cohabitation down to the time of his death. If I shall shew, that independent of this certificate there is clear and decisive evidence of the marriage, it will give additional weight to the testimony in support of the certificate; for if without it there is sufficient evidence, can it ever be supposed, that it was unnecessarily and wantonly forged? But first allow me to shew, what the rule of evidence is in matrimonial causes. It is clearly settled by the best authorities, by Mr. Burne on the ecclesiastical law, and by a very great authority in a neighbouring kingdom, whose title I will not mention, because he has not put his name to his book, that the marriage may be by witnesses present, or by cohabitation of parties, publick fame and reputation, and by confession of the married persons themselves, tho' their acknowledgment might be only for avoiding a prosecution for a criminal intercourse; and that divers other circumstances are allowed, and that if they amount to, what they call, *semi-plena probatio*, or according to our stile presumptive evidence, they ought to be extended in favour of marriage. But it has been objected, that this rule prevails only in the cases of marriages of publick notoriety. This objection allows the rule, but supposes, that it is never to be applied, for it is only in cases of doubtful and concealed marriages, that it ever can apply. The rule of the civil law is, that the children born before are legitimated by a subsequent marriage; the canonists have allowed this rule, because by the subsequent marriage, they say, the preceding guilt is taken away; and the subsequent ceremony shews a contract from the beginning. These principles prove, that the civil and canon law strain for presumptions in support of legitimacy. I acknowledge, our law does not go so far; but, if there is a marriage, tho' the very day before the birth, the child is legitimated, and neither the child nor the mother are the objects of legal reproach. The law presumes innocence, and that there was an antecedent contract, as the marriage was before the birth, and as the man by that act has given the strongest proof of the woman's purity. If counsel had attended to this principle, it would have prevented a good deal of freedom with a most respectable person,

son, whom the law supposes innocent, and whose character and conduct justify the presumption of law. The great credit, that ought to be given to the acknowledgment of the father and the testimony of the mother, appears in a remarkable instance in the year 1724. [*Hilliard's case*, 8th Mod. 180.] The evidence there consisted only of the death-bed declarations of the husband, and the testimony of the wife; contrary declarations were proved to have been frequently made by him: but she was admitted as a witness, and the jury found for the legitimacy. These principles will be the safest guide for your lordships to follow in determining this important question. The reason of particular men may differ, and often does: but those rules are sanctified by the wisdom and experience of different ages and countries.

The first witness to this part of the case in point of time is Patrick Kavanagh; it is observable, which in common cases is of great weight, that he was not produced to prove the marriage of lady Anglesey; he was produced only to give an account of Richard Annesley; none of lord Valentia's counsel imagined, he could say a word to this reputation: At length a question was asked him by Richard Annesley's counsel, "Did you believe in England, that lord Anglesey was married to Mrs. Salkeld? No, said he. What reason? Because two men had told me, that Richard was his son by a kept mistress. Had you any other reason? Yes, says he, I had, I heard a whisper, that lord Anglesey was married to another woman, to miss Donovan." It was before 1746, that he had heard of this reputation: He says, he believed it, but he tells your lordships ingenuously, that at that time some people believed it, and others did not; he says, it was not very general, that it was kept private, that he was frequently in the family, and that some people, who had an intimacy in the family, did at that time believe, they were married. Mr. J. Annesley applied to this man, to give evidence as to the pedigree, which shews, he thought him a man of credit, and acquainted with the circumstances of the family. This witness, who is of good character, and to whose credit Mr. John Annesley would have appealed, has given a clear testimony of the reputation, commencing from before 1746. This is said to be all artifice, and propagated by lord Anglesey; but where is the proof of this art? from the progress of this reputation is it to be supposed, that it arose in the

common course of things, or from design? At first it was only a suspicion; then it grows to be a belief of some people; afterwards it becomes a general reputation; and it was suspected at a time, when the earl was most anxious to conceal it. There is but one attack made upon this witness; an endeavour to trip up his heels, by saying he is a dancing master; but he appears to have been an intimate acquaintance of the earl's, and that his father had lost many thousand pounds by the family.

The next witness, I shall mention, is Mr. Masterfon; he is allowed by the opposite counsel to be a man of worth and honour; the gentlemen could not refrain from giving him that approbation, which belongs to the character of an honest man. This gentleman has an estate not only in the neighbourhood of the noble lord and his late father, but joining his demesne of Camolin, which occasioned a considerable intimacy for many years between the late earl and him: He is therefore as likely to give your lordships as true and satisfactory an account, as any witness that can be produced: He says, that in 1748, when he became intimate in the family, he did not consider her as a kept mistress; in 1749 he heard lord Anglesey say, he had been married to her, and never to Ann Simpson: that Mr. Esmond had been there interceding for Mrs. Simpson, and lord Anglesey answered as before mentioned; and that he had now got a wife, whom he was determined to support and keep. He says, lord Anglesey had told him before this conversation, that he was married to the present lady. He mentions a very natural circumstance in 1750, when a servant maid came into the room for some particular, lord Anglesey desired her to go to lady Anglesey, and she would get it; Was this art? has this the appearance of design? He treated her with as much respect and affection, as if she had been his wife, and very differently from Mrs. Simpson. He believes, lord Anglesey before 1751 was desirous, that the marriage should transpire; he heard him call her lady very often before October 1752; before that year the common tenants and such sort of people called her lady Anglesey, and the present lord lord Annesley. If Mr. Masterfon is intitled to undoubted credit, as has been admitted, he proves most fully the declarations of the husband in 1749, three years before the public marriage, the reputation of the family, and the progress of that reputation.

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The next witness is a gentleman of considerable estate, and of an antient family in this kingdom, Mr. Mathew Talbot; who mentions an incident in 1751, that could not be by design, unless it was an artifice concerted between lord Anglesey and Francis Annesley to destroy his own title, and that he should write him a letter to put him out of humour, and provoke him to this declaration, that he would shew them an heir and disappoint them all. Lord Anglesey's words are remarkable; he did not say then, that he had a son by Juliana, or that Arthur was his legitimate son; so that it could not have been said for the purpose of evidence, for then it would have been mentioned expressly, and not by implication. But it is clear from the circumstances stated by Mr. Talbot, that lord Anglesey meant the present lord. It does not rest here; Mr. Talbot went abroad, and did not return 'till a considerable time after the second marriage. He says, that on another occasion, the very year before he died, lord Anglesey, whose nerves were weak, and who was then in a fit of tenderness, did in the most solemn manner declare, with a denunciation of vengeance on himself if he spoke untruly, "That is my son born in wedlock." There could not be a more guarded, cool, or cautious testimony, than he gave: he does not mention his belief or opinion, but he states the facts, that your lordships may form your own judgments.

The next witness, that goes to the declarations, is Mr. Thomas Peree, from whose evidence it appears, that lord Anglesey had before 1752 mentioned to lord Loftus, that he was married to lady Anglesey, and that there was some family cause, which prevented his making it known; and lord Loftus declared, that, tho' no family had treated him worse, as they had given their interest against him in the county; yet he would do them no prejudice, but would do them justice. It is plain, lord Loftus believed every word of what, lord Anglesey told him; for these words clearly meant, that he would not do them the prejudice of keeping this to himself, but would declare the truth of this fact in justice to the posterity of a noble neighbour; and accordingly he attested the truth of it by an affidavit laid before the attorney and solicitor general, which was offered to lay before your lordships. The conversation was soon after the general election; and this nobleman in the midst of resentment determined, however provoked by ill treatment, to do justice

to this family. Mr. Peree's testimony makes this declaration of the late earl to lord Loftus evidence in a case of legitimaey, as much as if lord Loftus himself was produced.

Hitherto there are four witnesses to the reputation, and declarations at different periods. The next link in the chain of this reputation is Mr. Edward Butler, and his integrity and good publick character, have been fairly and candidly admitted. When your lordships are told on all hands, that this witness will tell nothing but the truth, you will attend favourably to his evidence. He says, lord Anglesey in April 1752 told him, that it was time to settle his affairs, for that he had been married a great while, and it was not of any use to keep it secret any longer, and that if Mr. Fitzgerald did not come to Camolin, he, Mr. Butler, must take the heads of his will; he afterwards got the draught from Fitzgerald, ingrossed three parts, and sent them to the earl in May 1752; and in the draught and ingrossment, she is called Juliana Countess of Anglesey; the present lord is called his son by the said Juliana; and he calls her daughters his daughters by his said wife: but his several children by others are all called his natural children. It cannot be supposed, he meant to deceive his own attorney, to whom he might have spoken under the seal of secrecy. Here then is a declaration, that he had been married a great while, and that he had concealed it. But the most material part of Mr. Butler's testimony is of an extraordinary transaction in 1750, relating to a bond taken by lord Anglesey from Mr. Francis Annesley of Ballyfax in the year 1749, and payable to her. Lord Anglesey wished for that place; Mr. Annesley agreed to let him have it during his life, in consideration of having this bond given up. The transaction shews, lord Anglesey considered the money as his own; he makes the bargain without a reference to her, or consulting her, because she was only nominal, and the money was his own; which answers the objection, that this money was intended as a provision for her; there is nothing importing the money to be her property: if he considered her as a kept mistress, it would have been otherwise, and the sum was considerable: he concludes the bargain without her knowledge, and without any ceremony or request sends to her to sign a discharge: as she was his wife, he thought, he had a right to dispose of the money without asking her consent: her reluctance and distress were unfeigned,

unfeigned, and can only be accounted for from the fact of a marriage, which she had promised not to reveal; she first refused the earl, and afterwards Ianns; and upon his pressing her a second time, and telling her Ballyfax was more valuable than the bond, she burst into tears, and said, oh! "it is not the value of the bond." It is the answer of an ingenuous mind, that would not sacrifice even to resentment itself a secret, with which it was intrusted. Mr. Ianns is dead, but has made an affidavit of this fact. The affidavit cannot be read, but Mr. Butler proves the fact sufficiently; he is a man of profession, experience, and discernment, and says, he was satisfied in his own mind from this lady's conduct upon that occasion, that they were married. The words, she at that time muttered to herself, of severe treatment, without intending they should be heard, furnish a strong and unpremeditated circumstance in proof of the marriage. This bond was taken in her name, but without her privity or knowledge, as she declares; and this must be taken as truth, because they suppress the material part of the evidence. Where is that bond of 1749 with her hand writing at the foot and on the back of it? why is it not proved? the receipt is proved by Mr. Butler to have been given to Mr. Annesley; why is not the receipt produced? because the bond and receipt are probably witnessed by some person acquainted with the affairs of the family; if any one of those, who could prove the reputation, had attested that bond, if he appeared as a witness for the claimants, it would make an end of the case, as he must prove the reputation of the marriage before 1752 in his cross examination. There is another remarkable circumstance in this part of the case; Mr. Annesley, after getting this bond, called Mr. Butler to the door, and said, this would be evidence against her hereafter, for he suspected, she was married, or would claim a marriage. Mr. Butler's testimony makes Francis Annesley as much a witness to the reputation, as if he was alive, and confirmed it at your lordships bar; and Francis must have been a good judge of this reputation, as Patrick Kavanagh says, he was constantly at Camolin Park: This transaction also shews the intention of lord Anglesey to conceal the marriage from the family by taking the bond in her name, and getting her to sign the receipt.

Another witness to the reputation is Mr. Shepherd French, who says, that in June

1752 she was publickly received at Ross as lady Anglesey; and that all people of reputation there, except Mr. Tottenham's family, went to visit her, and among the rest his wife; that they all believed, she was married; and that his wife was a good while, before she visited, till she was satisfied of the marriage. It has been said, that this is a poor soap boiler. There are persons of that trade, who would think no gentleman disparaged by an intercourse with their families; and this is a man of property, consideration, and respect, where he resides. Miss Batt also concurs in this evidence; and Mr. Tottenham, who then resided at Ross, has not been examined to contradict this publication of the marriage there.

Cornelius Donovan, in answer to a question proposed by one of your lordships, says, that when he returned in 1747, he had great reason to believe, and did believe, they were married, from the respect paid to her by his lordship, and the authorities which she assumed; he makes an eighth witness to this point; and there are three witnesses more; the three claimants, John by his acquiescence from 1765. Richard Annesley must have known the reputation; he went to school with the noble viscount, and constantly, while he deserved the protection of this family, resided with them; yet he acquiesced till March last, and offered to make an affidavit. The claimant Arthur, by the letter in 1757 which he has produced, has given evidence of this reputation; for it is clear, that the writer of the letter believed the marriage of 1741; and mentioned it as a reason, why his correspondent in Holland should not claim the title. Sometimes those declarations came from lord Anglesey with deliberation and recollection; at other times suddenly and unexpectedly; sometimes they burst from him in violence and resentment; and on other occasions they break forth in tears and tenderness.

Is this like artifice or design? He could not be such a master in the art of deception as to carry on a delusion in such a manner, and for such a length of time. Those declarations of the father and the reputation of the marriage are admitted in every court of justice, and, with constant cohabitation, amount to decisive evidence.

Adjourned till to-morrow.

Die Veneris, 29th May, 1772.

Lord RANALAGH in the Chair.

*Counsel called in.**Mr. Prime Serjeant proceeds.*

I HAVE taken the liberty of mentioning such observations, as occurred to me on the certificate; and, tho' the claimants counsel admitted it to be some evidence, yet whether it is to be considered as evidence, or as a circumstance to corroborate or impugn the other evidence, is immaterial to the noble viscount. We do not pretend to speak at this bar with any authority; but when counsel of one side make a concession, it is usual for counsel on the other side to avail themselves of that concession; and courts of judicature generally determine only upon those points, in which there is a difference. But I shall take it for granted, that any principle is ill-founded, however agreed upon by counsel, when a noble and learned lord delivers his sentiments against it: I only desire to use the certificate as a circumstance; but it will acquire more or less weight from the authenticity of the proof. I have endeavoured to shew, that it has been fully proved, without any evidence to the contrary: But there is a part of the case, which throws great light on the observation made relative to the instrument used in this writing. It appears in proof, that the certificate of 1741 was written on a table under a pier glass. Those tables are frequently of stone or marble; from the appearance of the writing, it is probable, that the paper was put on such a table without any thing under it; which will account for the imperfection in the lines of several of the letters.

As to the extrinsic evidence, there was an observation of weight, which had escaped me; it is on the evidence of Darcy. He is called upon to prove the hand writing of a man dead near thirty one years. That hand writing is produced to him without a connexion with any other writing; consequently it appears to him on a blank paper: a rea-

sonable man, meaning to tell the truth, must have reflected, that Nixon Donovan was dead above thirty years, and that it was to the last degree improbable, that his name should at that distance of time appear on a piece of paper without any other writing.

We have proved the reputation from before 1746, (it does not appear how long before) down to 1752; and the cohabitation antecedent to the time of this reputation, and concurrent with it to 1761, when lord Anglesey died. The acknowledgement of this certificate and marriage by Neil is much strengthened by the evidence of Mr. Simon Kavanagh of Rockfavage, a gentleman of a good estate, and unquestionable integrity, who has proved a conversation in August 1752 with Neil, whom he met returning from church; they entered into discourse, Neil happened to mention, that he was chaplain to lord Anglesey; upon which Mr. Kavanagh said, he was told, he was going to be married to Miss Donovan; Neil answered, that could not be true, for he had married them himself several years before. This could not be artifice or design, unless you believe the suggestion, that Neil was sent about the world to mention it to every man, he met. One important use is to be made of this conversation; when your lordships come to the surprize, Mr. Neil expressed at the second ceremony, it will appear not to have been a surprize as at a novelty, but at an impropriety: Recollect this conversation with Mr. Kavanagh, and your lordships will find, that a surprize of the same nature was expressed at that time.

I come now to consider the several objections made to the part of the case relative to the declarations and reputation.

It is first objected, that in the will of 1752 Arthur is not called lord, nor his sisters ladies; but

but this was only the draught of a will, and never was executed, tho' Mr. Butler heard otherwise; and in this draught he calls her his lady Juliana Donovan countess of Anglesey; and tho' he does not call the present noble lord Arthur lord Annesley, nor his daughters by the title of ladies, yet he makes distinctions, that are equivalent; he calls Arthur his son by his wife Juliana Donovan; Richard his natural son by Ann Salkeld; and he calls the sisters of Arthur his daughters by his wife Juliana; but the daughters by Simpson and Glover he calls his natural daughters. The calling her lady Anglesey is sufficient; because it is not questioned, but that, if she was married at any time before October 1752, it was on the 15th of September 1741. If your lordships are satisfied, that there was a marriage before 1752, you cannot doubt, but that such marriage was on the 15th of Sept. 1741; there is no circumstance to raise such a doubt in your minds. So that calling her lady Anglesey in May 1752 is as much, as if he had called his son lord Annesley, and his daughters ladies. It is manifest, that this draught was inaccurate, he calls her his wife, lady Anglesey, or his wife Juliana, just as the pen of the draftsman runs: The objection from his calling her Juliana Donovan countess of Anglesey is answered by observing, that Ann Simpson did then assume that title. By this draught an annuity of 1000*l.* is given to lady Anglesey for life, and it is expressly and anxiously given in lieu and satisfaction of dower or thirds; this is a strong circumstance to shew, there was no doubt in the mind of the person, who prepared this draught, but that she was his wife before October 1752, or otherwise this solicitude would not have been expressed to prevent her from claiming any part of the real or personal estate, except what the intended will gives her; it contains a power to let the lands of Camolin with consent of lady Anglesey, but only during the minority of the noble lord, and a power to cut all the woods, except the woods of Camolin; he considered, that his son was to succeed to the honours as well as to the estates, and intended, he should have a country seat fit for the residence of a nobleman. But it is objected, that in this draught of a will it appears, the noble lord was intended for the profession of the law: the will does not express nor import it. His father had two objects; one was, that a great part of the income of the estates should for some years be applied to pay the very great

debts upon it, and therefore his allowance is but moderate; the other, that, as lord Anglesey had been all his life involved in law-suits, and had reason from the situation of his affairs, and from those articles with Charles Annesley, to expect disputes would arise after his death, his son should apply to the study, tho' not to the profession, of the law. The direction also imported, that his son should endeavour to acquire a knowledge of the constitution of his country. From Fortescue down to Mr. Justice Blackstone every writer upon those subjects has recommended the study of the law to hereditary judges and legislators. A late institution in one of the seats of learning shews, that this subject is not to be considered in a narrow professional view. Several noble lords of a neighbouring kingdom have applied themselves to this study. A noble viscount of this kingdom, at a time when he was certain of succeeding to the honours of his family, went to the inns of court, and afterwards practised as a barrister here. The recommendation of this constitutional pursuit does not shew, lord Anglesey considered the present noble lord as a person, that was not to succeed to his dignities. The will of the 13th of May 1754 removes every objection to this part of the case; for by this will the present lord is called lord Annesley, and each of his sisters is called lady; the allowances to him are increased; the fortunes to his sisters enlarged; and the provision for Richard Annesley is lessened; and by this will there is an express declaration, that Arthur and his three sisters were born since the marriage. The executing a will so soon after makes it probable, that this will of 1752 never was executed; and then it is stronger, than if the draught in 1752 never had been produced; for it shews, that lord Anglesey would not execute any part of the three ingrossments, tho' prepared at a great expence, but would execute another will, that should contain express declarations of the legitimacy of his children. It is candidly admitted not to be unusual to make last wills, and not to call the sons or daughters by their titles, of which there are several instances. But it is said, this is in clear, not in doubtful or suspicious, cases: but suspicion does not arise in the mind of a man, who knows the truth. He had no suspicion, and therefore could not suppose, other people would suspect; so that it's being a suspicious case could not have any effect on the conduct of lord Anglesey. The objection

objection, made from the draught of the will of 1752, is not only clearly answered, but the evidence arising from it is a strong part of the present lord's case, and has more weight, as it by necessary implication proves the legitimacy, and yet clearly was not evidence framed for that purpose. If this is so, what will become of the vehement exclamations by the opposite counsel? It has been called a great event, and the interposition of providence! If I am right, the counsel have decreed themselves a triumph without a victory, like the Roman emperor when he returned with shells instead of laurels. It is such an interposition of providence, as Sir Paul Pliant returned thanks for, when he had discovered something in the conduct of his lady not greatly to his credit or advantage; still, says he, Sir Paul, art thou indebted to Providence, for otherwise thou wouldst never have discovered it.

The will of 1759 is also strong evidence of the legitimacy of the noble lord; he is there called lord Annesley, and his sisters ladies; and the several allowances and powers given to him are all such, as a nobleman would give to his eldest son and successor. It has been objected, that this will recites, that his natural children were born before his marriage with Juliana and in the life of Ann Prust, which shews, that he was not married to her in 1741, as Richard was not born till 1743; but that recital from the context does not extend to Richard even according to grammatical construction: the recital is only with a view to the Simpsons, with whom there was then a controversy subsisting; but no body at that time thought of Richard, or knew or cared, when he was born. Lord Anglesey's meaning was this; that this will, being a declaration of the legitimacy of the children of the present lady Anglesey, it was necessary to recite facts to shew, that the marriage of Simpson was not of the least weight; besides the whole will is founded on a marriage before the birth of any of Juliana's children, and the recital can never be construed against the whole tenor of this will: It is true, this will of 1759 makes a larger provision for the present lord; which has been endeavoured to be accounted for by an increase of the influence of lady Anglesey. There is no proof, she ever had an influence; but the contrary is shewn by Mr. Masterfon, that the earl would have his own way: But the increase of the provision is accounted for; the rents were increased, and the provision

for Richard lessened, and therefore it was natural to make a greater allowance for the eldest son. Then here are declarations of the legitimacy by the father on the most solemn occasions, and the most solemn acts done by him in affirmance of the truth of those declarations.

But it is objected, that a witness has been produced to shew a different reputation; which brings me to the evidence of Mr. Tottenham; who in many respects confirms the testimony given for the noble viscount; as it proves repeated declarations from lord Anglesey to Mr. Tottenham before October 1752 of his marriage with Juliana several years before. Lord Anglesey and his lady were in summer 1752 at Ross; Mr. Tottenham paid his lordship a visit; lord Anglesey asked, why Mrs. Tottenham did not visit lady Anglesey? Mr. Tottenham expressed his surprize at his expecting it; and lord Anglesey answered, "Sir, I have been married to her several years; but there are some certain reasons, why I have not been able hitherto to divulge it, but I shall very shortly." Mr. Tottenham replied, that, when he published his marriage, Mrs. Tottenham would pay lady Anglesey every compliment. Upon a second visit lord Anglesey repeated and pressed it with the same declaration; and Mr. Tottenham returned the same answer. Lord Anglesey soon after went to Camolin-park, and Mr. Tottenham heard from his lordship and others, that there had been soon after a publick marriage. Mr. Tottenham is a gentleman of fortune and consideration; can it be supposed, lord Anglesey would dare to ask him, why his lady, who was herself of a noble family, did not visit his kept mistress? Lord Anglesey must have been then conscious of the truth of the marriage, and also that the world was satisfied of the reality of it, or he would never have asked, why Mrs. Tottenham did not visit her. After those conversations, when the opinion formed in consequence of them must have been more recent on his mind than at a distance of twenty years, he made two affidavits; which affidavits, I acknowledge, correspond nearly with the account of the conversations; which he has now given; but the opinions of men change, they are governed by events; and he is a wise man, indeed, that can tell precisely, when and why his opinion was changed. Those affidavits must have been intended to be laid before the attorney general of Ireland or England; they were made upon an application from the agent

agent of lord Valentia, and in support of his lordship's petition, asserting his legitimacy. It is natural to suppose, tho' now Mr. Tottenham says, he is of a different opinion, that he must be mistaken in his recollection, and that he was really of opinion at the time of the conversations, that the professions made by lord Anglesey of his marriage were true. If he believed the discourse, the setting it out in affidavits, was doing justice to the noble lord; because inserting it in the affidavits implies the belief of the man, that made them. If he did not believe it (which I cannot suppose) the persons, before whom those affidavits were produced, must be led into an error; for it must have been supposed, that if he did not believe this discourse, he would have said so. It was at first taken for granted from those conversations, that Mr. Tottenham would have been a most material witness for the noble lord in this cause: He is undoubtedly a gentleman, whose character is justly regarded; a man of caution and experience, not very young, and acquainted with the world. Would he, even in private company, repeat a word, he did not believe true? Every man of his experience would be cautious, how he mentioned, even in common conversation, what he did not believe. But it is much stronger, when affidavits are made in the progress of justice. I would treat the character of every man with that regard, that is due to him, and therefore I would be understood, that I suppose, Mr. Tottenham might have at the distance of twenty years forgot his opinion at the time of making those affidavits; for those observations seem to me to prove clearly, that he must then have believed, what lord Anglesey told him. But it does not rest here; two letters have been produced from this gentleman; one of those letters, relative to the tuition of the noble lord, bears date in 1757, and he calls him in that letter lord Annesley. This is a circumstance of weight, when it is considered, that this is a letter relating to a confidential act, he had undertaken for the noble viscount, and not the politeness only of common intercourse. This, connected with his being a trustee in the will, shews at least, that lord Anglesey supposed, Mr. Tottenham had believed him; it does not appear, he ever declined or refused to act in any of those trusts: But this will appear in still a stronger light. A letter has been produced without a date from Mr. Tottenham to lady Angle-

sey; several material observations will arise on the words of this letter, and therefore I beg leave to state it. "I am concerned to find, some new attempts are made by various affidavits to give your ladyship further disturbance, and sincerely wish, you may effectually and speedily overthrow any person, that means disturbance to you or the family of my late friend." In the postscript compliments are given to the young ladies, but not to the noble lord, which is material; lord Valentia went to the College in 1761, and was there in 1762; which makes it highly probable, the indorsement of it's having been received in 1762 was a true indorsement. The words, "various affidavits," plainly shew, that this letter must relate to the hearing before the King's law servants. It is not by affidavits, that litigations are carried on in courts of justice: It must then have related to the contest about the honours of the noble lord. Lady Anglesey had no contest about her title or her property. The word "disturbance" meant something, in which her credit was concerned, and points to her evidence of the marriage, and the question, Whether she should be deemed guilty of perjury and forgery, or not; this letter shews, that Mr. Tottenham at that time thought favourably of lord Valentia's cause: He calls the opposition to it "attempts to give disturbance:" He sincerely wishes, her ladyship may speedily and effectually overthrow any person, that means disturbance to her or the family of his late friend: Could a man of Mr. Tottenham's character wish success to perjury and forgery? Could he have sincerely wished, that an honest gentleman should be overthrown by means so base and wicked in his attempts to obtain the honours of his family; no regard for her or her children could have induced him to wish success to fraud and imposition against right and justice. He certainly forgets; he must have been formerly of opinion, that the noble lord was legitimate; the letter cannot be otherwise reconciled to his general character. It is no imputation upon any man, that he has changed his opinion; the late decision in England might have occasioned the change in his sentiments, and he now supposes, that he had never been of a different way of thinking. The words at the conclusion of the letter, "the family of my late friend," usually signify legitimate, and do not in common acceptation import illegitimate,

legitimate, children. I am sorry to observe upon that part of his evidence, in which he calls the date of this letter a forgery; there was no date to it originally; it was produced to him on his cross examination, for the purpose of proving when it was written. The figures at the bottom are lady Anglesey's writing, as a memorandum to shew when she had received it; and this was mentioned to be so by lord Valentia's counsel, at the time he produced the letter. It is said by a noble lord, that there is a figure of Mr. Tottenham's at the bottom of that letter, and that the letter was dated by him: I certainly cannot discover it, tho' I have examined it carefully with my naked eye, and thro' glasses. The hand-writing of Mr. Tottenham, to which I am a stranger, except by that letter, is a pretty large hand, and there was not room for a date in this hand-writing at the bottom of that letter. I have not been able to discover the smallest appearance of a rasure; and it would have answered no purpose to have made any alteration in the date of this letter. A forgery means something done with a malicious intention. I give the counsel their choice to mention any one day, month, or year, after the death of lord Anglesey, when it was written; and the letter appears, and is confessed, to have been written after his death. The imagination of man cannot surmise, how the date of this letter could be of any consequence, or the forgery of it of any use: but I suppose, when Mr. Tottenham saw a letter of his with a date not of his hand-writing, he thought at first view, something was wrong, and therefore gave it a hard expression, to which, I was sorry to find, he adhered the next day. Nothing can be clearer, than that the date of this letter in a different hand-writing, which has been called a forgery, can have no weight in this case.

I have now gone thro' the part of the case relating to the declarations and acts of lord Anglesey, and the reputation of the marriage between 1741 and October 1752: There are many witnesses of unquestionable credit, who fully prove the reputation and the declarations of lord Anglesey during this period; and on the other hand there is no evidence opposed to all this, except the single testimony of Mr. Tottenham, which I have endeavoured to account for by natural and liberal observations upon his evidence, compared with his affidavits and letters. Mr. Stopford Fielding I do not mention here;

for he states the conversation about the plate as of the year 1756.

But it is objected, that lord Anglesey had cohabited with Ann Simpson a great number of years, had introduced her as lady Anglesey, and made a provision in 1740 by deed for her and her daughters as ladies also. But there was no doubt of the fact of the marriage; whether he was married or not to Ann Simpson, was not disputed, but whether the marriage was lawful or not. His acknowledgment of the marriage in that instance was true as to the fact. A very remarkable event in this country has shewn the danger of attending to this objection. There was a trial in 1743, in which one of the best juries, this kingdom could produce, after an investigation of many days found a verdict against lord Anglesey; it was founded upon the prejudice, that had arisen against him and his cause principally by this story of Ann Simpson; and therefore they believed against lord Anglesey, what they would not have believed against a common man, and rejected evidence in his favour, that they would have allowed in favour of another. A gentleman, whom I very unequally succeed in office, shewed with the greatest clearness, that he was intitled to a verdict, and yet the jury found against him; but, when time had removed the film of prejudice, the world, still convinced of the integrity of the jury, saw clearly into the delusion; the verdict never had any effect, and lord Anglesey continued in possession of his estate. But prejudice against the late earl, will never have that effect upon your lordships. You will never make that unfortunate nobleman sin in his grave, by suffering the irregularities of his life to deprive his legitimate son of the antient honours of this noble family. Declarations of the father in such a case are very different from the testimony of witnesses; if lord Anglesey was, what the law calls, infamous, so that his evidence would not be allowed before any jury, yet his declarations would be evidence of the legitimacy of his son; he could not be deprived of the rights of nature; he had still the parental authority, and incident to that is the power of making those declarations. We agree with all civilized countries in the principle. We do not carry it so far as some other countries. In Scotland, if there have been children before the ceremony, such children are legitimate; and they will enjoy not only the estate but the titles of the father. We are much wiser in

in not going so far, but still we allow the declarations of the father and mother to be evidence in such cases. The principle is this; the man has power to make the contract, and his declarations ought to have in every court of justice as much weight in favour of his wife and children, as the declarations of a man in support of any other contract, which by law he is capable to form. Those declarations have been considered as if in favour of lord Anglesey; but they are declarations against him; it is affirming a right to his wife to a third part of his estate, and affirming to his son not only a natural right to a provision, but in this particular case to the inheritance of two thirds of his estate, of which these declarations make lord Anglesey tenant for life only. I shall conclude this part with a single observation; that an instance is not to be found in our law books, nor in the history of any of those countries, where there has been a constant uninterrupted cohabitation, and declarations of the marriage have been persevered in by the father for many years constantly, and to the time of his death, and where the mother is disinterested, and proves the marriage by a credible, consistent, and uncontradicted testimony, that the legitimacy under all those circumstances was not established. I hope, the history of the world never will afford such an instance, which would be ruinous and subversive of the very fundamentals of society.

I come now to the marriage on the eighth of October 1752. That lord Anglesey did wish for an heir, and by this lady, cannot now be controverted; the marriage of 1752 puts it beyond doubt: Why then should he entertain that idea in 1752 and not in 1741? Every circumstance of probability shews, he entertained it at one time as well as the other. Lord Anglesey having it long in contemplation to declare this marriage publicly sent about for his friends, and when they came, mentioned the purpose of the meeting: Mr. Masterfon, one of the company, smiled, and said, he thought, they had been married before; lord Anglesey answered, that it was true, but the witnesses were dead, and he would therefore be married over again. Neil shewed an unaffected and natural reluctance against performing the ceremony a second time, which was certainly irregular. The certificate of the marriage of 1741 was called for by Neil, and brought down by lady Anglesey, was handed about, and read by several of the company. Neil declared, it was

his writing, and that he had married them on the day mentioned in that certificate. A paper was then signed by several persons present, reciting the marriage in 1741, and the reason for having this second marriage. It is objected, that Mr. Masterfon said, it was concerted between lord Anglesey and Mr. Neil. By his evidence he explains himself; that Neil knew, the second marriage was intended, and not that the reluctance of Neil was a concerted scheme. The perplexity of Masterfon arose from the manner of the cross examination: The counsel in putting his question mentioned, "You said, Neil was surprised;" but he had said no such thing; his evidence was, that Neil said, the second ceremony was quite unnecessary, and a surprise how such a matter could be thought of. The assertion of the counsel led him into the mistake: It was not saying, he was surprised at the second ceremony as a novelty, but as an impropriety; and in this manner he afterwards fully explained his meaning. When this certificate of 1741 was handed about, several persons were there, who knew the hand-writing of Kavanagh: Stringer and Devereux both said, that was his hand-writing; but from 1752 to 1761, indeed to this hour, no person then present has expressed any suspicion of that certificate of 1741. If it was a contrivance in 1752, the paper and ink must have looked fresh, and there would have been doubts raised in the minds of some persons in a numerous company. They would have communicated their doubts to others; and suspicions of forgery would have been circulated: but it does not appear, that any one of the multitude of people then present ever expressed any doubt, nor did it ever enter into any man's mind; that the name Charles Kavanagh, was a forgery; till the paper was taken, where his hand-writing was not known. But there is a farther observation upon the transaction of this day, which will appear in a striking light in favour of lord Valentia, tho' it has been made the foundation for an objection: I mean, Neil's not signing the certificate of 1752. The first inference from this fact is this; that Neil's reluctance to the second ceremony was unfeigned and real; that he disapproved of the second ceremony; thought it irregular to marry a couple, he had married before, and therefore would not put his name to the second act. A second inference is, that the reason for the second ceremony was founded in truth, not in fiction; namely, that

that the other witnesses were dead, and that Neil was the only survivor to give an account of the transaction, except the married couple: The second certificate was meant to supply that defect by calling upon new witnesses. If the first certificate had been fictitious, he would assuredly have put his name to the second; but he thought one authentic certificate of the truth sufficient, and that it would have been absurd to sign a certificate, reciting and confirming the truth of his own evidence. These reflections may be more relied upon, because, if Neil's not signing had been to give a pretence to those observations, it would have been mentioned at the time, and some of the witnesses would have taken notice of it in their testimony. The observation on his not signing is *ex nata*, arising from the subject. It is not pretended to have been a contrivance between lord Anglesey and Neil, that Neil should not sign the second certificate: This certificate was certainly not the contrivance of Neil; the word marriage is twice wrong spelled, and the word used in his certificate is matrimony. This gross inaccuracy could not have been by a man, who had taken his degrees in this University, and appears to have been a man of sense and literature. It has been objected, that there is a rasure visible in part of the word September. Where there is any suspicion about a writing, it first occurs, to see if there is a rasure in it; but it is clear, that the rasure of the word September could have no effect; and there is no doubt, that the certificate of 1752 was a real certificate. It would have been easy to have had the certificate written over again; but this rasure gives weight to the evidence of that transaction; part was wrote, before the company assembled, the remainder afterwards. It is natural under those circumstances, that the writer should have made a mistake in part of a word, and not have waited to copy it out fair. But this marriage has been called a ridiculous, farcical, chimerical scheme, fit only to entertain boys in a nursery; yet lady Anglesey is acknowledged to be a woman of good sense; and it is strange, that a woman of a first rate understanding, as she has been called, should have planned a scheme, that no body could believe; but the whole scheme was no more than to publish a real fact. Taking the certificate of 1741 to be false, and connecting it with the transaction of 1752, all appears farcical; but taking it as a true certificate,

every thing is clear and rational. I agree, that as a feigned story it is the most ridiculous ever invented; and considering this lady's understanding, I should as soon suspect her for driving about in a go-cart, or playing with a doll. But it is said, the second marriage shews, there never was a former; and we are called upon to mention instances, where any man has ever married his wife over again, if the first marriage was not private. There are a thousand such instances; there was an instance of a gentleman's marrying the same woman many years successively previous to the birth of every child; and one of those children is now a person of rank, and enjoys a great estate. The marriage must be connected with all its concomitant circumstances: and particularly with the certificate, containing a recital of the former marriage. There were many strong reasons for this second ceremony; Mr. Neil was an old man and infirm; therefore his death, before he could be examined in a court of justice, was a very probable event; the perpetuating his evidence by a publick declaration was a prudent measure. Another reason appears from the testimony of Mr. Tottenham, for whose opinion lord Anglesey had a considerable regard; he found at Ross, that Mr. Tottenham's, the principal family of the place, was estranged from him: Mr. Tottenham gives him a very sensible reason for it; he goes home, and takes his advice by publishing the marriage. But lord Anglesey probably foresaw, his concealing this marriage so long would occasion litigation; he was apprehensive in 1752, that Neil might have died, and that he might have been deprived of his testimony. Lady Anglesey from her youth was likely to survive; but counsel must have informed him, that there would be an objection to her as an interested witness; and therefore he determined by the second marriage to remove that difficulty, and to enable her to bear a decisive attestation in favour of his posterity and of her own.

It is objected, that there was no suit to establish this first marriage. One answer is, there was no suit to impeach it, tho' publickly avowed. Why there was no suit to establish it, can be accounted for. Lord Anglesey might have been afraid of two acts of parliament, one of king Charles, the other of king George the first; the one making it a capital felony to marry a wife, the former being alive; the other making it a transportable felony; and this might have been one reason

reason for not discovering the marriage sooner, tho' of such nature that he probably did not chuse to mention it: Lord Anglesey might have been very unwilling to institute a suit, where he must have given publick evidence, that might have made it doubtful, whether he was not to be brought under the penalties of one of those acts of parliament. But besides the apprehension of this there is another sentiment, that arises in every one's mind; lord Anglesey might have been unwilling to have circumstances appear in courts of justice, that could do his character no credit. He must have had some sensibility about him, and in the courts this affair of Ann Simpson must have made some noise to his prejudice; and a man hunted through every court of equity, law, and ecclesiastical jurisdiction, might have wished to rest for the remainder of his life, and might well have shuddered at launching again his old and shattered barque into a tempestuous sea, where his property, character, and honours had been nearly wrecked. But besides he was afflicted with an infirmity, which required the lenient attendance of an affectionate friend, that was only to be found in the other sex. Perhaps lord Anglesey, who had lived a good deal secluded from the rest of the world, could not at this time of life easily have found any person to supply in this particular the place of lady Anglesey. Mr. Fitzgerald's testimony shews, that he could not bear the thoughts of being separated from her; and that he was apprehensive, such a suit might have lasted the remainder of his days; and in the ecclesiastical court he could not have sued, as it appears, he was under an excommunication there for many years in the latter part of his life.

This recognition of the marriage of 1741 by a publication of it in 1752 is a circumstance of great weight; I mean by recognition a publick acknowledgement of a fact existing before by parties competent to the making such an acknowledgement. The word is not new, and is perfectly understood. This recognition, connected with constant cohabitation and reputation, is as strong evidence, as ought to be expected in a question of legitimacy; and, that lord Anglesey persevered in this truth to his death, has appeared from the testimony of the reverend Mr. Edkins, who was in the year 1760 a tutor to lord Annesley; and when he was about a week there, lord Anglesey assured him, that lady Anglesey was his lawful wife, and lord An-

nesley his legitimate issue. But it is said, there was no introduction to it; how is that accounted for? Lord Anglesey found his infirmities increase; he thought his end approaching; and his apprehensions appear to have been well founded; he thought proper to make this declaration to his son's tutor, and a clergyman, for the purpose of being afterwards remembered; and I own, that declaration was made for such a purpose, and could be for no other. Mr. Edkins says, lord Anglesey was grown very devout and a great penitent, had prayers two or three times a day, and persevered in this declaration; that his conduct to his wife and children made Edkins take it for granted, that this declaration was true. In Hilliard's case, which I mentioned, the only evidence to found the verdict besides the testimony of the wife was such a testimony as this; a death-bed declaration. We are told, such declarations are not to be regarded: but I will appeal to the right reverend bench, whether they do not find in the general, that the approach of death reveals almost every secret, that the heart is open, that the dying christian is a new man; and whether in the case of a very great sinner they would not regard his declarations in those solemn moments, more than many oaths of such a man when in perfect health. He perseveres in this truth at all times, in sickness and in health, and even in the very hour of death.

I proceed now to the testimony of a witness, whom I have been very much at a loss at what time to mention, or under what head to class; and I hope, your lordships will have as much difficulty to believe him, as I have had to class him; I mean Stopford Fielding. This man begins with professing a perfect indifference and entire ignorance; he was not in the way, he says, to know any thing about them; he always absconded and went away, when he heard their names mentioned; and would go out of the room, till he thought the conversation was over; from this outset one would suppose, he could say nothing to the case: But he opens by degrees, and appears a witness to every part of it. It is strange, that a man, who determined to know nothing of the matter, if you believe him, should know more than all the witnesses together. There is one circumstance, that only can decide, whether he is to receive credit; and that is the time, when the words, which he attests, were spoken by lord Anglesey: If spoken after 1752, it is incredible,

incredible, because contrary to the whole evidence: he begins with saying, it was in 1735 or 1736; he then recollects, that after 1732 this would not be so very probable; and then says, he cannot remember the time, and does not know, whether it was 1745 or 1746, but it was between those ten years. That it could not be before 1752, is probable; lord Anglesey was not in circumstances before that time to have had a service of plate; it is known, he was before 1752 a very distressed man. Is it credible, that lord Anglesey should after the publick marriage in 1752 call this gentleman publickly into the hall, and tell him, that was a service of plate without his crest, as he intended it for Julia? That there was a service of plate bought for her, is proved by this witness. Is a service of plate a usual compliment to a kept mistress? Is it an appendage of a noble early unmarried, distressed in his circumstances, and secluded from society? If there can be supposed to be any truth in this evidence, it is only by supposing, that before lord Anglesey had determined to publish his marriage, he had bought this service of plate, was apprehensive, it might have raised suspicions, that he was married, and therefore called for the plate, and shewed it to Fielding in this manner to prevent him from suspecting the truth; and in this light it will be of weight in favour of lord Valentia; but it is more likely, that the whole is a fiction. The other part of this evidence is equally incredible, as to his being sent by lord Anglesey to Mr. Stopford after 1736 to be guardian to his bastard son Arthur; after the publick visiting at Ross, the transaction of October 1732, and all the wills. I have stated, it is impossible to believe this tale. Many gentlemen of unquestionable credit must be considered as perjured, if a word of this evidence receives any credit. I must oppose to his testimony the evidence of one of their own witnesses; it is contrary to the account given by Mr. Lloyd, who says, that at Ross after about half a year, Arthur was constantly called lord Anglesey; which shews it to have been lord Anglesey's determined resolution at that time to give all the weight possible to the reputation of this marriage; and the testimony of Fielding is utterly inconsistent with that intention; besides he does not appear to have been in the confidence of lord Anglesey; there is no promise of secrecy; no reward; this makes it quite incredible, and therefore, I hope, those

two parts of his testimony will receive as little credit here, as they did in another place; another part of his evidence as to Mr. Neil must be rejected, if you reject those two material parts; for if he swears falsely in any one part, he can have no credit as to the rest; he says, lord Anglesey in 1748 quarrelled with Mr. Neil, and called him villain; it has been objected, that Mr. Neil must have had a bad character, because he was chaplain to lord Anglesey, and yet because lord Anglesey quarrels with and abuses him, there must be an end of Neil's reputation.

An objection has been strongly relied upon, that this marriage of 1741 had been kept secret 'till 1752; I must observe, that the objection supposes a fact not true; for tho' not publickly announced 'till 1752, it was not so long kept secret. It was acknowledged to Esmond White and Masterfon in 1749; to Masterfon before that time; and in 1751 and 1752 to other people; so that it was kept secret no longer than from 1741 to 1748 or 1749. This secrecy is to be accounted for in a variety of different lights; by the suit with Charles Annesley and the decree obtained by him in 1740 in Ireland, and in 1741 in England. But it is said, lord Anglesey was not in his power, or, if he was, that he exercised that power with rigour against him. That he was in his power, is proved by Mr. Coultherst and others, and by his having a sequestration against his whole estate in Ireland with costs of suit; that he made a vigorous use of this sequestration is not proved; the fact certainly was not so; for, if it was, he would not have left lord Anglesey one guinea to support him. But there was a further reason to keep it secret; his situation with respect to James Annesley. It is said, that his claim was not made at the time of the marriage in 1741, and that his intentions were not known to lord Anglesey, 'till he received the letter, which has been proved, from lord Glerawly; but that letter shews, it was known in Jamaica a considerable time before, and that he had taken the title of earl there; and the circumstances of that remarkable case shew clearly, that the proceedings by James Annesley were apprehended before 1741; by that letter it appears, there were doubts in the minds even of the family at that time; for the letter says, I hope you will be able to answer; which expresses a doubt, whether some part of the story told by James might not be true; and his

his offering him his best assistance shews, it was necessary for his friends to assist him; it was natural, that lord Anglesey, having married a girl not worth a shilling, and whose mother was so far fallen from the former situation of her family as to be reduced to keep an ale house, should wish, that so unequal a marriage should for some time be a secret. But after the verdict in 1743, when lord Anglesey was persecuted by the prejudice of mankind, (although, I acknowledge, occasioned by his own indiscretion) was it a time to have raised the voice of his family against him, and to have increased the publick prejudices, to which he had nearly fallen a sacrifice? Charles Annesley was intitled to one third at least of his Irish estate, and to succeed to his honours, if he had no son; and would not have been so likely to assist him, if he knew he was married. It is said, that after the death of Charles this was as great a secret as ever. I deny it; the reputation had commenced before, but grew stronger after the death of Charles. In 1748 he determined to make it publick, and did publish it by degrees down to the marriage in 1752. Among other circumstances of distress, that might have reduced him to the necessity of a prudent reserve, his situation with Ann Simpson might have been one; she had instituted a suit, which was depending several years, and he might have wished to wait the event of that and of the several other contests, in which he was engaged. But there is no accounting for the effects of fear in a man, who was indebted in large sums, had created many enemies, and did not carry about him that shield of steel, a conscience void of offence. There is no accounting for the effects of pride in a man, who had married a poor girl of a reduced family; there is no accounting for the effects of whim in one of the most singular men of his time. But it is said, after having several beautiful children is it possible, he should keep this secret? It is very possible; while Charles Kavanagh lived, there were two witnesses of the marriage, Neil and Kavanagh, remaining, independent of his wife; he might have rested secure during their lives; and it is common to postpone, what is every day in our power. I wish, I could say, it was not the practice of mankind in the most momentous concerns, from a mistaken notion, that we shall have it in our power to do, when we please; such a dissipated man might well have thought, with two witnesses living, and the certificate

of 1741, that all was secure; but when Kavanagh died in 1751, and this marriage hung by a single thread, then he disclosed it at Ross, and afterwards recognized it publickly by the second ceremony. It is said, that a woman would burst with curiosity to reveal such a secret; but this woman is fit in many instances to be an example to that sex, of which she is an ornament; she has a manly understanding, and perhaps more, the best sort of female understanding; was bound in honour to keep the secret, and not to break a promise solemnly given and often enjoined; she was also bound in interest by being in the power of a man, who might have left her a great provision, or not one shilling: Besides, she was to deal with a whimsical sort of gentleman; if she had disclosed a secret contrary to her word and honour, she could not be sure, but that she might have been treated with as little ceremony, as Ann Simpson was, and that he might have put her to difficulties to prove her marriage. But it is objected, that she did not trust her mother: you are told, that her mother was a woman of indiscretion, which is proved by the story of the smith: but she did desire her mother not to be uneasy on her account. Another singular objection is, that she never was married to lord Anglesey, or her mother would not have married a smith. Even the nobility themselves, as well as those who are connected with nobility, are sometimes led astray by natural attractions to form unequal alliances.

Mr. Loyd's evidence, which has been objected, is of no weight; for tho' he says, they were kept at school on terms of equality (of which terms he must have been a very good judge at eight years of age!) yet after the present lord was called lord Annesley, according to him the terms of equality still continued, and therefore prove nothing.

Lord Anglesey's letter, and lady Anglesey's receipt in 1746, have been strongly objected; the receipt for 8l. for the uses of lord Anglesey's house, given to White his lordship's and also then agent to Charles Annesley, and witnessed by Charles Kavanagh; this letter and receipt proves no more, than what we profess, which is, that the marriage at that time was to be kept secret; and lady Anglesey has acknowledged, she sometimes signed her maiden name. But to whom is this receipt given? to lord Anglesey's agent, to one who was in the next settlement of accounts to return it to lord Anglesey, and consequently

consequently a piece of evidence never likely to be used against her. How it came not to be given up will require observation; White must have lost 8l. by not giving it up. Why did he retain it? clearly because he knew, there was such a reputation, and that this lady was married, and that he had got a piece of evidence, which might be material to Charles Annesley, to whom he was agent, and to the Simpsons with whom he had a connection. Here has been an interval of 11 years from the private to the public marriage, and this is the only receipt for money given by this lady, except as to the bond of 1750: this piece of evidence then concludes strongly in favour of the noble lord, and against the purpose for which it is produced. If Juliana had signed her name freely like other women, many papers must have been signed by her, especially as she had all along the care of the family, and yet not a single paper during this long examination has been produced signed by her, except this. The fair conclusion from these circumstances is, that this lady had more than ordinary caution, how she put her name to papers; some reason must be supposed for this caution, and no other can be assigned, but an antecedent marriage necessary at that time to be kept secret. But Charles Kavanagh's name to this receipt is considered as a direct contradiction to the marriage in 1741: but instead of that it defeats the use intended to be made of the receipt in 1746; Where was the occasion for a witness to a receipt for 8l.? It was not White called upon the witness, it was lady Anglesey, for this purpose that Kavanagh should account for it, why her maiden name was signed, and prove her marriage at the same time he proved the receipt; it was a safeguard to the lady against any ill consequence, that might have attended her signing her maiden name to this paper.

I cannot help observing here, how unequal the treatment has been between the noble lord and his antagonists; they do not state any part of their case, least the noble lord should defend himself against that case; this proceeding of theirs is contrary to the rules of all courts of justice, which judge *Secundum allegata et probata*, and require, that every man should know, what he is to encounter.

The noble lord's council stated his case fully, and that, which was really candid treatment, they call a pathetick representation, but keep the state of their own case in their pockets.

It is said, the servants of the family from 1741 to 1752 are not produced; it is difficult to find servants at a distance of 20 or 30 years: but there is better evidence given, than that which is required; gentlemen, who were in those times intimate in the family, have been produced.

It is asked, What is become of the letters between lord and lady Anglesey from 1741 to 1752? but is it usual for husbands and wives to keep their letters for a great distance of time; and is it probable, a lady, who married 30 years ago, should have her husband's letters to produce 10 or 11 years after his death? But it is said, this is a particular case, and therefore they ought to be produced. I must observe, they were seldom separated; in the first period of his absence can it be supposed, that a noble lord going to another kingdom, and forming there a loose, temporary, connection, would write many affectionate letters to his dutiful spouse at home? constant experience shews, that poor ladies in such an unhappy situation seldom receive instances of their husbands kindness and affection even in writing. But if this had been a framed story, lord Anglesey was a party to it; the lady is a woman of good sense and sagacity; would she have neglected to have said to him, take care always to send letters by some trusty person, signed your affectionate husband, and I will send you letters in the same manner, signed your affectionate wife. The not producing those letters, instead of shewing it a fictitious case, shews the contrary; it would be looked upon as a contrivance, if the letters were produced, and the not producing any such seems to be a circumstance of fairness. I am sorry also to observe, that lord Anglesey could not be very fond of writing; for from his orthography he could not have been a great master of his pen. But it is said, Why did she submit to his bringing her a natural son in 1746, if he was married to her? but should she have shewn her resentment against the vice of the father by exposing the innocent child? no, she shewed this ungrateful adventurer in his infancy, his boyhood, his youth, and maturity, that she recollected her obligations to the stock, from which he sprung: if she had been a kept mistress, she might have been jealous of a rivalry between the boys; but could have had no apprehensions of a competition between this child and any of her legitimate children. But as to all those objections there is this answer; lord Anglesey considered it as an inferior

rior marriage, and in such marriages the lady, tho' improperly, is treated more freely by the husband, than if they had married on terms of equality; besides, this lady must have considered herself very much in the power of her husband, and consequently could not have objected to it.

The articles of 1737 have been mentioned as a decisive objection; yet they now appear to conclude strongly in favour of the noble lord, and shew the danger of going one step by suspicion or conjecture; for if those articles were taken from the belief of some of the witnesses, and were not produced to contradict the objection of the claimants, that objection would have had great weight.

By those articles it appears, that as to two thirds lord Anglesey was tenant for life only, with remainder to his first and every other son in strict settlement, remainder to Charles in like manner, remainder to the right heirs of the earl; but as to one third, after the death of Charles without issue male, he was tenant in tail, and he levied fines and suffered recoveries, consequently had a clear power to dispose of one third; he had also a power of disposing of the estates at Camolin, and in England and Wales. It is very common for

a man, who has a great deal in his power to dispose by his will of estates, which are not in his power, from the rule that the devisee must abide by the whole will; and, as to the two-thirds, the declarations of his marriage were against his own interest, as they made him tenant for life, and vested the inheritance in his son.

We have been often told, that the lady has been taken from the bar of an alehouse; the fact was otherwise; her mother having had 14 sons and two daughters was in narrow circumstances driven for a time to have recourse to this industry; but the daughter was not bred up in this way, and never did any business in that house.

I come now to the testimony of lady Anglesey, and as the case will principally depend upon the credit to be given to her, it is necessary to consider the objections to her evidence with more than ordinary minuteness. I am ready to consider every other part of the case as inducement to her testimony, and as circumstances to determine whether she has sworn truly or not.

Adjourned till to morrow.

Die Sabbati, 30th May, 1772.

Lord RANALAGH in the Chair.

Counsel called in.

Mr. Prime Serjeant proceeds.

INOW come to that part of the case, in which the noble lord thinks himself infinitely more interested, whatever may be the event, than in any other part of it; that which concerns the reputation of his noble and honoured parent. For 30 years, till a late event, the breath of calumny had never blown on her reputation; she had escaped all those hostile shafts, that were levelled against the character of her husband, and had the merit of reforming a licentious and irregular man. That she is a witness by the laws of her country, no man can controvert: but as doubts have been endeavoured to be raised in instances, where there was as little foundation, I beg leave to mention, that this point, name-

ly that the mother is a competent witness for her child, was determined by lord Hardwicke in the case of *Stapleton and Stapleton*, and that there have been several other similar determinations. But I should trespass on your lordship's time in quoting precedents to support a rule now clearly established. It has been mentioned already, that the civil law allows in those instances the evidence of a parent, tho' not in any other case. But it is necessary to consider the extent of this rule. It is not by the rules of the civil and canon law confined to the case only, where the mother is disinterested, but extends to the case of the mother when suing to establish her own marriage, provided there

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are circumstances that amount to a *semiplena probatio*; and if lord Anglesey was now living, and disposed to treat this lady, as he treated Ann Simpson, she would be a witness against him (with the other circumstances of this case) to establish her marriage in the ecclesiastical courts. The courts, that have competent jurisdiction in matrimonial cases, would receive her as a witness, which your lordships will find in the case of *Williams* against lady *Osborne* in Sir John Strange's reports, where the lady in her own case was admitted, and took, what they call, the suppletory oath. This is the true light of considering this question; not as a question in favour of lord Anglesey, but as against him, if he was now living, and the wife or the son endeavouring to prove the marriage against him. If then she would be admitted in the ecclesiastical court as a witness, where she herself was interested to establish the marriage, tho' her husband controverted that fact, how much more clear is it, that she should be admitted as a witness, when the declarations of her husband, and so many other circumstances establish the fact, and when she appears to be all together disinterested. I must therefore take it as certain ground, that by the laws of this country she is unquestionably a good witness; the only question is, whether there is any reason to induce your lordships not to give her credit; if no such reason appears, by the rules of law she must receive it; if she stood single, your lordships are to give her credit, unless by the testimony of others or by her own testimony she appears not to deserve it; but she does not stand single; there is no material article of this case, not a fact or circumstance to which she has sworn, in which she is not supported by other witnesses or by circumstances. She proves the return of lord Anglesey and his chaplain Neil from Wales to Camolin-Park in September 1741; the marriage on the 15th of that month by Neil in presence of Nixon Donovan her brother, and Charles Kavanagh his lordship's domestic steward; that immediately after the ceremony Neil drew a certificate of the marriage, and signed and sealed it, and Donovan and Kavanagh witnessed it in her presence; that the certificate was written and signed on a table, that stood under a pier glass in the parlour, where they were married; that Neil delivered the certificate to lord Anglesey, who sometime that day or night, but not immediately, gave it to her; that she kept it in her possession in different places,

sometimes in the robings of her gown, and never produced it till the day of the second ceremony on the 8th of October 1752, when a certificate reciting the former marriage was signed by several persons then present; that she never parted with it from thence till February 1762, when she gave it to Mr. Mark Whyte her attorney; that lord Anglesey made her promise to keep it secret at the time of the marriage, and frequently afterwards enjoined a strict observance of the engagement; the persons present were laid under the same promise of secrecy: the reason for this reserve was his apprehension of Charles Annesley, in whose power he was, and his suit with James Landy; that in 1748 after the death of Charles he determined to disclose it; he intended to have made it public long before, but was prevented by his situation in respect to his many lawsuits and family affairs; that he was at it in 1750, 51, and 52; from the time of the first marriage she constantly lived in his house, had the use of his equipage, and the care of his family, and was as much mistress of his house before 1752 as after, and she proves an uninterrupted cohabitation from September 1741 to the death of the earl in 1761, except during his two absences in England.

In these and many other particulars her evidence is confirmed by other witnesses; as to lord Anglesey's and Neil's returning in September 1741 from Wales to Camolin-Park she is supported by Cahill, Rigley, Miss Batts, and the book of Miss Batts's father. As to the fact of the marriage she is supported by the appearance and proofs of the certificate, now closely inspected, to which new additional proofs have been given, and which is as clearly established, as any paper of that antiquity can be after the deaths of the witnesses. She is further supported in her evidence as to the marriage by the declaration of Neil before the second ceremony; by the reluctance expressed by him against the second ceremony; by the sincerity of that reluctance proved by his conversation with Simon Kavanagh, and by his not signing the second certificate; by his solemn declaration at the time of the second ceremony, in which he must be taken to have persevered during the remainder of his life for 8 or 9 years, because there is no credible witness to the contrary. She is supported by the transaction on the 8th of October 1752, by the proof of that certificate; and, as to the account she has given of the transaction

transaction of that day, she is supported by Mr. Masterfon and the other witnesses to that paper, whose deaths and hand writings are all proved. Her evidence is confirmed by the early reputation before 1746, continually increasing to the time of the publick declaration at Ross; by the frequent declarations of her husband for many years and in his last sickness; by the draught of his will in April 1752; and by the wills executed by him in 1754 and 1759. As to the resolution of lord Anglesey to declare the marriage in 1748 she is supported by the testimony of Mr. Masterfon; and in what she says, that lord Anglesey was at it, meaning the discovery of the marriage in 1750, 1751, and 1752, she is supported by Mr. Butler, Mr. Masterfon, Mr. Talbot, Mr. Tottenham; and by the evidence of Mr. Peree from his conversation with lord Loftus. In the account of Richard's being brought over in 1746 she agrees with the witnesses for Richard, and with Mr. Lloyd, one of those witnesses, as to the sending the two boys to school at Ross; she is supported by a still stronger circumstance, an uninterrupted cohabitation for twenty years, except in two instances in which he resided in another kingdom. Cohabitation in all cases of this nature is the strongest evidence; this cannot be too often inculcated; or proved too clearly, because it is the main spring, upon which all matrimonial causes turn; it is like possession in the case of property, which, if for a certain length of time, the law presumes, is a lawful possession. The presumption is, that the cohabitation is innocent and lawful; and slight evidence will be admitted in support of that presumption. The acknowledgment of the husband, tho' sometimes contradicted by him, will with cohabitation be often considered as sufficient evidence; which appears from the case of *May* against *May*, 17th of the late King, in the time of *chief justice Lee*; there the husband had applied for an act of parliament, and it was necessary for the procuring it, that he should make an affidavit, that he was not married; he made such an affidavit; the question before a jury was, whether he had been married or not; there was no evidence but cohabitation, the oath of the wife, and declaration of the husband on his death bed, contrary to the oath of the man himself; yet the jury found for the marriage. Surely the declarations of lord Anglesey, irregular as his conduct must

be admitted to have been, are not liable to so strong an objection.

There are other important parts of the case, in which her evidence is confirmed by her adversaries; as to her not knowing any thing of the bond, passed by Mr. Annesley of Ballyfax in 1749, at the time of taking it, her adversaries give her credit by not proving or producing the bond; for then the witnesses to that bond would upon their cross examination have confirmed her testimony, and therefore none of those witnesses are examined. She has also mentioned the great distress, in which lord Anglesey was involved, and of his being and thinking himself in the power of Charles Annesley; and therefore his keeping the marriage secret; in this she is clearly confirmed by Mr. Coulthurst, who has gone thro' the suits to shew not only his distress, but his being entirely in the power of Charles Annesley. It must be now taken as certainly true, that he was in great distress and in the power of Charles, that he thought himself in his power, and that all those circumstances united were the reasons, or the principal reasons for keeping this marriage secret.

Many of those witnesses have been produced before; consequently our adversaries have one great advantage; they talk of our going over the ground before; but they have had a much greater advantage; they knew, who our material witnesses were to be, and where they lived, and yet have not examined to the character of any of them; they knew the evidence, they gave, and probably were to give; and by not impeaching them have established their credit beyond contradiction. Those witnesses, who are unexceptionable, confirm lady Anglesey's testimony. I hope therefore, I have proved my position, that she is supported by witnesses or circumstances in every material allegation. If then your lordships would believe her, if no reason to the contrary, was she a single witness, there can be no doubt of giving her credit, when she is supported by a number of witnesses and a variety of circumstances. But it is still stronger; no witnesses are produced to contradict her but Elizabeth Smally, whom I may call an infamous and perjured witness; for the counsel, who produced her, now admit her to be so. The contradiction, said to be by Darcy, upon reading that part of his evidence appeared to be a confirmation.

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The next consideration is, whether in any particular she contradicts herself; it is necessary therefore to examine her testimony as to the consistency of it with the greater minuteness, to shew that there is not any objection to it, that has the least foundation. The first objection is, that a judgment was entered in 1749 in her name against the late Mr. Annesley, and satisfaction entered on the record; and that this bond taken in her maiden name, and the satisfaction upon the judgment, contradict all, she has said in this part of the case. The first question is, whether she has said any thing in contradiction to this bond, judgment, and satisfaction; supposing all were proved: most clearly she has not; tho' I shall be a little minute, I hope I shall be excused for reading the questions put to her, and her answers: "When lord Anglesey desired you to sign a release to the bond, did he desire you to sign it by your maiden name?" "He told me it could not be done in any other manner, and said, it did not signify, for I was under coverture;" She also says, that lord Anglesey desired her to sign a parchment or paper, she does not know which: not a word of her evidence here that jars in the smallest degree with the bond of 1749, the judgment, or satisfaction. The record could not be read to shew she signed a warrant of satisfaction, tho' it was read to another purpose; her signing the warrant to acknowledge satisfaction was not proved, nor was the warrant produced; a copy was offered to be read, but not insisted upon: But supposing it proved, that she signed that warrant to acknowledge satisfaction, is there a word in her testimony, that contradicts it? On the contrary she says, he desired her to execute a paper or parchment, she cannot tell which; the receipt and the warrant must be taken all as one transaction. They have not grounded their objection upon any thing, that happened here, but upon the notes in another place. I hope, I may take the same liberty, and be allowed to answer the objections from those notes. She was asked there, "How came you so reluctant to sign the discharge of this bond?" "Because it was the only paper, I signed my maiden name to, that I thought would be on record." "Was that paper any thing more than a receipt for the money?" "I can't say, what I signed, but imagined, it would be on record." Those notes shew manifestly, the contrary of what is insisted upon, and remove all suspi-

cion, that she meant to conceal the truth of this transaction. Therefore as to this bond and judgment, instead of shewing any inconsistency, they are strong circumstances to confirm her testimony. But I cannot leave this part of the case without taking notice, how very hardly she is dealt with. They do not venture to ask her, whether she ever took such bond, directed any judgment to be entered, or executed such warrant, and the bond is not produced, nor the warrant to enter judgment or to acknowledge satisfaction, nor the attorney concerned in that business, for fear they should give some light; tho' the warrants must be supposed to be in the hands of their attorney, and the bond in their possession. Your lordships observe the word, record, used by her; a receipt on a bond could never be on record against her; but this warrant for satisfaction would be on record; therefore she has given evidence, that points to such acknowledgment of satisfaction instead of contradicting it.

There is another objection made as to a judgment obtained in her name against one Hay entered in 1750. A judgment being entered in the name of a person is no proof, that it was with the privity of the person. The very officer, who produced the record, said, he knew many instances of judgments entered without the knowledge of the nominal person; upon this judgment no satisfaction has been entered, nor any account given of it except by producing the record. There was a judgment in her name in 1749 against Mr. Annesley of Ballyfax; that cannot be objected to her, because it is to be now taken for granted, that the bond was passed and the judgment entered without her privity. If so, why should it not be understood in the same manner in another instance in the following year; her having been ignorant of one raises a presumption, that she was equally ignorant of the other; especially as the claimant's council did not venture to bring out the truth by asking her, whether she had lent money to any person, or my lord in her name, or obtained any bonds or judgments, or any questions to that purpose, because if those questions had been proposed, the gentlemen knew, she would have given your lordships a full and satisfactory account, that those bonds and judgments were without her knowledge.

The next objection is, that she says, he proposed marriage to her several times, and, after he solicited it so often, she marries him. Consider the question and answer to it, which will

will put an end to all the pleasantries; that ingenious fancy has employed upon the great solicitation necessary to be used by a noble earl in marrying a poor girl. "How long had lord Anglesey mentioned marriage or proposed it?" "At different times; and a few days before;" not a word of solicitation, nor the idea expressed by any other; the answer is remarkable, and will be material in another part of the argument; the question consists of two parts, the mentioning marriage, and the proposing it; the answer corresponds with the question, shews the purity of this lady, and the innocence of her conduct from the beginning. She said, he mentioned it to her at different times; that must have meant during the life of Ann Prust, but he proposed it to her a few days before the marriage, which must mean after his return from Wales. He proposed it to her not more than once, but a few days before the marriage, tho' he had mentioned it to her several times before, during the life of his former wife, then an old woman; he mentioned it to her originally as an inducement; he proposed it to her, when he was at liberty to make such proposal, as an act of justice and the performance of an engagement.

The next objection is, that she swears, that till the ceremony in October 1752 she kept the marriage inviolably secret, and that in this she is contradicted by Miss Batt, and in the account of what passed at Ross in Summer 1752; many questions with the utmost address were proposed by different council to this lady to draw her into an inconsistency as to her keeping the marriage secret. They suppose, it is an objection to her consistency, that she did not keep the marriage a secret, when it did not any longer remain a secret. When lord Anglesey publicly announces it to the world, and goes publicly with her to Ross in a coach and six, and she is publicly visited as lady Anglesey; Could it be considered by her, that she was then to keep it a secret? impossible; for when he thought proper to publish it, her engagement was at an end, and there was no more reason for her keeping it secret at that time in Ross, than there is for her keeping it secret upon her present examination: but the fact is not fully stated by the objection. She is asked, "whether she kept it an inviolable secret;" I confess, she answers, "She did;" but immediately adds, "I cannot say positively, I did not mention it to any one; I mentioned enough to make my mother easy in her

mind as to me; I never produced the certificate, and unless by a slight hint did not mention any particulars;" not a word that she concealed it, after her lord wished, it should be publick and declared it himself; it is perfectly consistent in words, and meaning.

The next objection is singular; Is it credible, that a woman of her superior and exalted understanding should not have objected to the second marriage in 1752? she would have been an idiot, if she had made the objection; for it put her honours and her jointure out of all doubt; this objection is not founded on the good understanding of the lady, but is intirely removed, if you suppose her to have common sense. It is said, this certificate was kept in the robings of her gown, which is mentioned to be a most ridiculous circumstance; she said, sometimes she kept it in that manner. But when you attend to this ridiculous circumstance, your lordships will find, it contains a most serious argument to prove the truth of what she has said; look into the certificate, and you will see, a pin has run thro' the seal; it must have happened, from what she mentioned, that she kept it some times in the robings of a gown, and this circumstance is to be added to the intrinsic weight of the certificate. Ridicule is a very sharp weapon, and if it does not answer the purpose of wounding an antagonist, it generally wounds the hand, that directs it. There is no objection made to her consistency, that is not when examined a proof of her consistency in that particular, and a confirmation of her evidence, which has not often happened in other cases: she is not inconsistent with herself in word or meaning, or in any one fact or circumstance of the whole case; and is not contradicted by any one witness, or any one circumstance, or any one probability; but is supported by every witness, (smally excepted) by every circumstance, and by every probability. An objection is made however, that she has not been credited in another place; it will be my duty to endeavour to give it an answer. I say, lady Anglesey was not known in another place, had not resided there with an excellent character for thirty years; and your lordships must have greater confidence in persons of credit in your own country, than strangers can have in another country. There are sometimes national prejudices in all countries, tho' perhaps less there than in any other; and an unexceptionable witness will

not always meet with the same credit in another country as in her own, where by an irreproachable conduct for many years she has established her character. But she is supported here by many witnesses, and circumstances that did not appear in England; she is supported by the evidence preceding the marriage, by the certificate of 1741, more clearly proved here, and by the hand-writing of Charles Kavanagh, set up beyond any possibility of doubt, so as to draw from the candour of council this sort of concession, that it is not improbable, but Charles Kavanagh was under the influence of this lady, and that he put his name to it to be made use of by her on a future occasion, whenever she could prevail on lord Anglesey to marry her. The reputation of the marriage before 1746, the acknowledgment of it by lord Anglesey before 1749, the declaration of Neil in summer 1752, and the public declaration and visiting in Ross before the second ceremony, are circumstances, which did not appear upon a former occasion, and prove a marriage before October 1752. A witness was produced against that certificate in Great Britain, and no witness here against it; Elizabeth Smally gives no evidence against the certificate here, and contradicts what, she swore against it in England, by now saying it is not the same. Mr. Butler's evidence is new, and gives great strength to the case. A great difficulty before the lords of Great Britain seems to have arisen from the long concealment of the marriage, which was not accounted for to the satisfaction of their lordships: but the evidence of Mr. Butler, Mr. Pease, and particularly Mr. Coulthurst, none of whom were examined in England, have altogether removed that difficulty, by shewing that such concealment was reasonable and necessary, and that the earl thought so. We have the advantage of a more numerous attendance; not only the assistance of the learned lord in the first department of the law, which they had not in England, but we have the assistance of a right reverend bench, to whom the decision of matrimonial causes properly belongs; the certificate of the bishop decides in a court of law, which cannot go against the bishop's seal, the sentence of the bishop's court being decisive for or against the marriage, till that sentence is varied or reversed.

The opinion of the Lords in Great Britain has been compared to a verdict, which the next jury ought to follow. The verdict of a jury ought certainly to weigh with another

jury; but if such verdict was found in a county, where the facts and witnesses were not known, the verdict of a county thoroughly acquainted with both ought to have more weight. This is a fact, in the decision of which the Lords of Ireland naturally take the lead, because it happens at their doors, and they know the characters of the witnesses: Will you therefore defer to the opinion of other men, however great and respectable, who have not in this particular case the same means of information, that your lordships, living in the scene of these transactions, must be supposed to have? Even in a verdict by a jury of the same county, if it appears to have been in any respect founded on the testimony of a witness, who afterwards appears to be perjured, it would not be followed. But the Lords of Great Britain have not determined, that this noble lord is illegitimate: The question proposed there was, whether the claimant made out his title to the honours in his petition, which by a majority of the Lords, who attended, was resolved in the negative. If any doubt remained in their minds, they could not avoid coming to such a resolution, for to make out a title the evidence ought to have been clear; but here the noble lord is in possession, and a clear title must be made out against him, or else the possession is not to be disturbed. If that is to be the rule as to an acre of ground or a little tenement, how much more ought it to prevail in the possession of a seat in this assembly, held in two parliaments by his Majesty's writ? No subject is referred to this committee but the three petitions. If your lordships are clearly of opinion, that any one of the claimants is intitled, your lordships will certainly say so; but if you are of opinion, that not one of them has made out his title, you will come to such resolution upon each of those three petitions, and then there is an end of the Order of Reference; and no other question can, as I apprehend, be propounded: For if a man has the possession of honours or estate, no person, who appears to have no title himself, has a right to have a question put upon the title to that possession. This I take to be the rule of law; but in the present case the possession has received an additional sanction from the Acts of the claimants. John Annesley after a litigation of four years seemed convinced of the title of the noble viscount, and lay by for seven years. Richard, acquainted with all the proceedings, acquiesced for seven years, after he

he came of age. Arthur was informed in 1757 of the marriage in 1752, and of the certificate of the former marriage, and makes no claim till 1772: What has happened in the mean time? The noble viscount, your lordships are told by the adverse council, has married into a noble family in England; this alliance has taken place during their acquiescence, and a son interested in this very title is born, who ought to be heard, before any thing can be finally decided against his interest. What distress and confusion would it occasion, if a person, who acquiesced in a decision upon a question of legitimacy, should be at liberty at a distance of time to controvert it? no family would be safe in forming alliances.

But the strongest observations upon the evidence of lady Anglesey remain to be mentioned; every court and jury will judge for themselves with more probability of discerning truth from the appearance of a witness, and the manner and demeanour during the examination, than from any observations that council can make. Consider lady Anglesey's testimony in this view; the readiness, clearness, and candour of her answers, given as freely and openly to the adverse council as to her son's; the recollected dignity of her whole deportment, the cool and unaffected simplicity with which she delivered herself thro' a torturing cross examination of several hours, could flow from no other sources but innocence and truth. Reflect with what facility she has given an answer against herself: if she had post-dated the birth of Richarda for three or four months, not a witness in the world could probably have confronted her. Lord Anglesey then lived in much obscurity: she does not expressly say, there was a promise of marriage, tho' I have mentioned one of her answers, that seems to imply it. If there was not such a promise, she shows a strict regard to truth in not asserting it, tho' a circumstance in which she could not be contradicted; if there was, as is the truth, there is a noble delicacy in not dwelling upon such a circumstance, farther than she is interrogated to it. If she had hesitated which to have preferred, false delicacy or truth, tho' against herself, she would not have relieved the opposite council from an embarrassment as to the style, by saying without being asked, "the February after the September I was married." This part of her evidence shews the clearest regard to truth, in perhaps the only instance where female delicacy would wish to falsify. I could read in her counte-

nance, that she was then revolving in her mind, whether she should inform your lordships of promises to sanctify a precedent act by a subsequent ceremony, the moment an expected event happened, and the laws authorized it; but she determined nobly. "No, it might look like varnish, or a feigned tale: I disdain to dwell on an indelicate circumstance; let my conduct for thirty years as wife and mother in the exercise of every conjugal and maternal duty speak for it's self." Those circumstances could have been brought out by council, but they indulged her ladyship in a sentiment suitable to the dignity of her station, and to the elevation of her mind. Your lordships would wish, she was competent, if the laws of her country had not made her so. Will you say, that such a mother shall not have credit? when the law says, all mothers shall receive it, unless personally interested, and, unless by contradicting themselves, or being contradicted by others, they forfeit the confidence of the law, and appear not to deserve it. It is objected, she swears to support her own credit, by supporting what she swore before; and at first view that appears to have weight, but has not the smallest upon consideration. When are you to take up the regard due to her credit? when she made the first affidavit; the question is, whether, when she was first sworn, she deserved credit or not? and if her present testimony is consistent with her former, it is a confirmation, and cannot lessen the weight of her evidence. But it is said, there is every circumstance, that can actuate the human mind to give false testimony. What are those circumstances? that her dignity will be impaired, if her children are not dignified. This lady had secured her own rank, and a considerable jointure for life for herself; there was also secured a large estate to her son, and a considerable provision for her daughters; her son's large estate has for an honourable appendage a great interest in a large county, by which he might probably have obtained a seat in the other house of parliament. These were acquisitions sufficient surely to gratify the affection, nay to satiate the vanity and ambition of this lady. Was it natural, that a woman of her principles could not be satisfied, unless by perjury and forgery she made her son a lord; and that a woman of her understanding should endeavour to accomplish it by means, which, she must have foreseen, would have ended in the ruin of his fortune, and of her reputation;

tion; and that must have made her name the butt of malignity, and the sport of fancy? to reason clear as hers what are all the titles and honours, that kings can give, placed in the balance against truth, morals, religion, and that peace of mind which virtue only can bestow? they are trifles light as air, mere sounds, mouth-honour, which the poor heart would feign deny. Reflect, my lords, what superior elevation of mind ought to belong to superior dignities; it would be presumption to doubt, whether any of your lordships would not sacrifice life, estate, honours, and posterity, rather than debase his mind by crimes; why then suppose, that another of equal dignity should stoop to such infamy? Shall it be said, that great English and Irish honours are distrusted and reprobated, because possessed by an unfortunate gentlewoman of Ireland, however excellent her understanding, and unexceptionable her conduct for many years amongst you! By mere accident it has come out in the evidence, that this lady is married to a gentleman of honour and character. How that fact is, I know not; but supposing it true, could she have contaminated her mind by such opprobrious wickedness for the sake of her children by a former marriage, after she had partly transferred her affections into another family? Law, reason, justice, humanity, necessity itself, establish both her competency and credit: and as the story of Susanna has been mentioned, whose innocence was asserted against two witnesses, this lady will not, we hope, labour under an imputation of guilt, when there is no evidence against her; but may the same justice be done to her as in that instance; and may the great voice of this assembly proclaim to the neighbouring kingdom, "return to your seats of judgment, for they have borne false witness against her."

By the canon law the mother is allowed as a witness; by the civil law, rejecting all other parental relations, she is received in a marriage case; the common law cautions to an extreme in admitting witnesses who have any bias on their minds, has adopted that rule: It is the law of the whole Christian world; it is the language of reason and necessity; it is more than all this, my lords, it is the voice of humanity, crying aloud to all her children, "Let not the link of nature be wantonly broken; my dearest connections of husband and wife, parent and child, the sacred source of every bliss, and of every virtue, must not be sacrificed to

"the subtleties of logic, and the cavils of controversy, nor shall the venerable foundations of the social fabric be rashly and rudely shaken by the pick-axe of the law."

How clear should be the evidence, how certain the proofs, before a man is cut off from the community! Consider the situation of a such a man; after a dream of twenty or thirty years of rank, wealth, and magnificence, of the comforts and endearments of life, he suddenly wakes to wretchedness and distress, without the hand of a parent to bless him, without the arm of a relation to raise him, without the countenance of brother, sister, or kindred to cheer and comfort him; the fond parent, of whom the law has deprived him, lately the guardian and pride of his youth, now branded with infamy, becomes his disgrace and reproach, and sinks into the grave in misery and affliction! Justice must be done, but you must be sure, you are doing right, before you involve consequences such as these. These are not pathetic delusions, nor the suggestions of fancy, they are the dictates of nature, the genuine effusions of the heart; they lead not to deception and error, but to rectitude and truth, and wretched must that cause appear, which can only succeed by suppressing or effacing the finest feelings of the human mind. There is no human judicature, that is not liable to error; your lordships as little fallible as any upon earth: If you should commit a mistake (an improbable supposition) if that error is in favour of the noble viscount, every lord has the clearest justification: The answer would be easy, "If I have erred, I have erred with the laws of my country, I have conformed my conduct to their rules; I listened to the evidence, which those laws allowed, and I found not sufficient reason to pronounce, that such evidence was false." But on the other side what would be the answer? it could only be, "It was a very singular case, it was doubtful and suspicious; I conjectured to the best of my sagacity; I surveyed most critically every stroke in every letter of Charles Kavenagh, and I happened to conjecture wrong." But my lords, the laws would reply, "That they delight in certainty; that it is their maxim, that innocence should be presumed, 'till guilt is proved: that twenty guilty men should escape, rather than one innocent suffer; and that they never take information from suspicion, nor admit conjecture for their guide." Nothing is more dangerous

dangerous than to follow the suggestions of suspicion. One of the greatest judges of human nature makes the suspicious man say, "Now do I see it plain," when he was most deceived, and when nothing was to be seen but his own fatal error and mistake.

I now enter with great reluctance and distaste into the case of Richard Annesley, as a question in which the noble lord has no concern; and I should indulge my own feeling in not considering it at all, but for two reasons; one is, that it has been used against us as a circumstance to shew the improbability of the marriage of 1741; and the other, that the noble lord's case will appear stronger, when John Annesley, against whom he has already prevailed, and who had so long acquiesced in the decision against him, shall appear to be his only opponent. I was surprized, that the first counsel should begin with the case of Richard; it did not appear to me to carry with it his usual sagacity; in the powerful exertion of his talents there was a great deal of excellent acting, both serious and comick; I thought, he should have attended a little to the rules of the theatre, and have kept the farce to the close of the exhibition. But this fable of Mrs. Buntin has not even an air of probability; the two witnesses to the marriage in August 1742 make the marriage in May the foundation of that in August; if that shall appear to be a fiction, the foundation fails, and the superstruction must fall of course. Ann Salkeld is said to have been of a respectable family; but none of the family from May 'till August inquire into the circumstances of the alledged marriage in May; and tho' the father, mother, sisters, and brother-in-law were all then in London, no one of them, nor any relation or friend of the family, or any person whatever, was called upon to be present; Mrs. Buntin's not making that inquiry, or even asking her sister about it, tho' she saw her that day, proves either, that she was a woman of ill fame, of which there is some evidence, and took it for granted, her sister was in the same situation; or that she was conscious, there never was a marriage in May 1742: no certificate of this marriage in May 1742 has been produced; no person is even pretended to have been present; and no account of the circumstances of this marriage given by Buntin, even by hearsay, from her sister. As to the subsequent marriage in August, it is like a marriage, that happened some years since in small play, which occa-

tioned a litigation in our courts. If ever there was another marriage in small play, this is that marriage. They were drinking after dinner, and in the midst of their merriment there was some idle discourse between lord Anglesey and Mr. Hay; the earl expressed himself pleased with his lady, and the hopes of a son; Hay said, he thought, he would have been tired of it before this time; the earl answered, he would do it again, if it was to do to-morrow; Hay replied, it may be as well done now as at any other time; my lord rings, a prayer book is brought, and up rise the company and the parson, as if they were going to dance a cottillon. It is not at the desire of any friend or relation; it is whim, or accident, or amusement, or an interlude in the entertainment of the evening. It does not appear, there was ever such a clergyman as Gold; but it is proved, that there was a French officer of that name, an acquaintance of lord Anglesey. As there was no evidence of the first marriage, it is natural to suppose, that the woman would have called upon this supposed clergyman to have given her a certificate; but no such certificate produced. It is said, that several gentlemen of lord Anglesey's acquaintance were present at this marriage. None of them are produced, not one of their names mentioned. Here then is a publick marriage, not only in the presence of several obscure and low persons, but also of many of lord Anglesey's acquaintance, and yet no person in England or Ireland ever spoke of this marriage, tho' there was no reserve. It is said, she was publickly called lady Anglesey, and visited as such; several of lord Anglesey's near relations resided in London at that time, particularly lady Haverham; not one of them called upon any other person to say, they ever heard of such a lady Anglesey; she was treated without the least ceremony, left with a one horse chair, without a foot-man, the coach and six taken away, and the natural children all sent to her; yet none of this respectable family of Salkeld, nor she herself, ever complained of it, or of the situation in which she was left. Every circumstance shews clearly, she was a kept mistress, not a wife. What is the conclusion? at length this commode countess of Mrs. Buntin's creating, this right honourable dry nurse of the natural children of lord Anglesey, in seven or eight years after all her condescending compliances takes a qualm, and breaks her heart, poor thing, because lord Anglesey had not the best character in

the world, of which her father's supposed refusal of him must have informed her many years before. Another circumstance is impossible to believe; it is said, that she went in 1746 to Yorkshire, and resided there to her death, as lady Anglesey; a woman of that rank is generally known, especially in the country and in small towns: But no evidence of any woman between 1746 and 1749 called countess of Anglesey in any part of Yorkshire, or that any person of that title was buried there. They say, there were publick rejoicings at the birth of the child, that he was introduced to all companies as lord Altham. He is taken ill, doctor Barry is sent for, and prescribed for him as for lord Altham. This doctor Barry was then well known to the gentlemen of Ireland. If this fact was true, he would have mentioned to some of his Irish acquaintance, that lord Anglesey had a son, and that he had seen lady Anglesey; by which means the marriage would have been heard of here. The boy, it is said, is brought down, and introduced as lord Altham to a captain of a ship, and a gentleman going to Ireland, who were desired to say, they saw him; and yet it is acknowledged, that neither this lady Anglesey nor lord Altham were ever heard of in Ireland. The story is in itself incredible, and it is clear, Richard did not believe it; for after he had heard of it, he took several steps in the affirmation of lord Valentia's title. They appeal to Mr. Greene, a nephew of lord Anglesey, by saying, he was one of the sponsors. But what does Mr. Kavanagh tell your lordships? that he went and returned with lord Anglesey in 1746, never heard of this lady Anglesey in London; heard, that this boy was his son by a kept mistress; and as such he was brought over to Ireland in a separate carriage: that Greene, to whom they appealed for the truth of this marriage, told Kavanagh, she was a kept mistress.

I will not impute this villainy to the claimant, or any particular person, but somewhere it exists. I suppose, the year 1772 produces Mr. Kerchers as well as 1741. The title of lord Altham decisively proves this to be a fiction. The title of the eldest son is Annesley; but by the printed account of the trial with James Landy it appears, the title, lord Anglesey had first, was lord Altham; and from thence they took it for granted, that Altham ought to be the title, with which their young hero was to appear on the stage. No cohabitation is pretended from 1743; no reputation in either kingdom; no declarations by the father of the marriage, but solemn acts in disaffirmance of it; no certificate, no acknowledgement of the clergyman: It is positive swearing, not supported by any other witness, fact, or circumstance, but in opposition to every circumstance which usually attends such a transaction, and is the reverse of lady Anglesey's testimony in every one of these particulars. If any truth could for a moment be admitted in Mrs. Buntin's fables, it would render our case in some respects more probable; it would prove a facility in the earl to submit to the marriage ceremony, that he had no objection to a second marriage with the same woman, and that her being pregnant was an inducement, and not an objection.

I have now no farther trouble to give your lordships; but if in the conviction of my judgment, and the warmth of my wishes, I have exceeded the bounds of an advocate in any particular, I hope, your lordships will ascribe it to my zeal for my noble friend, and not impute it to want of deference and respect for this noble committee; and I wish most earnestly, that your lordships may come to such a resolution, as may discover truth in this important cause, attain the purposes of justice, and reflect lasting honour and dignity upon this illustrious assembly and this kingdom.

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account of the circumstances of this marriage given by Buntin, even by herself, from her sister. As to the subsequent marriage in August, it is like a marriage, that happened some years since in small place, which occa-

Dom. Proc. Die Martis 24 Junii 1772.
Die Lunné, 1st June, 1772:

Lord RANALAGH in the Chair.

THE several orders of reference and petitions being read, the committee then proceeded to take into consideration the whole, of what had been laid before them; and it appearing to the committee that the several claims of John Annesley, Arthur Annesley, and Richard Annesley were not well founded; if Richard late earl of Anglesey and viscount Valentia was married to Juliana Donovan; the present countess of Anglesey; on the fifteenth of September 1741; and it also appearing to them upon weighing the whole of the evidence touching that particular, as laid before them; and considering what had been said thereupon*, that Richard the late lord viscount Valentia, the father of the sitting lord, was married on the fifteenth day of September 1741 to Juliana Donovan the present countess of Anglesey, the mother of the sitting lord; the committee came to the following resolutions:

I. Resolved, That it is the opinion of this committee, That the petitioner John Annesley of Ballyfax, esquire, hath not a right to the titles and honours of viscount Valentia and baron Mountnorris, claimed by him.

II. Resolved, That it is the opinion of this committee, That the petitioner Richard Annesley, esquire, hath not a right to the titles and honours of viscount Valentia and baron Altham, claimed by him.

III. Resolved, That it is the opinion of this committee, That the petitioner Arthur Annesley, esquire, hath not a right to the titles and honours of viscount Valentia and baron Mountnorris, claimed by him.

Which resolutions the lord viscount Ranalagh was by the committee directed to report to the house, when the house shall please to receive the same.

Adjourned 'till to-morrow.

* Upon this occasion several lords of the committee delivered their thoughts. Vid. Appendix.

Dom.

Dom. Proc. Die Martis 2d Junii, 1772.

THE lord viscount Ranelagh reported from the lords committees of privileges, to whom was referred the petition of John Annesley of Ballyfax, esquire, claiming the titles and honours of viscount Valentia and baron Mountnorris in this kingdom, that the said lords committees have met and proceeded upon the matter to them referred, and upon considering the evidence and proofs laid before them, and upon full hearing of counsel for all parties, have come to the following resolution, viz.

Resolved, That it is the opinion of this committee, That the said John Annesley hath not a right to the said titles and honours of viscount Valentia and baron Mountnorris, so claimed by him.

Upon which report and resolution, the question being put, that this house do agree therewith,

It was *Resolved*, by the lords spiritual and temporal in parliament assembled, That this house doth agree with the committee of privileges in their report upon the petition of John Annesley of Ballyfax, esquire, to his excellency the lord lieutenant of this kingdom, and by his excellency referred to this house by his majesty's order, claiming the titles and honours of viscount Valentia and baron Mountnorris.

Ordered, That the lord chancellor do attend his excellency the lord lieutenant with the said report and resolution of the said committee, and the resolution of this house thereon; and desire that the same may be transmitted to and laid before his majesty as the opinion of this house on the said petition and reference.

THE lord viscount Ranelagh reported from the lords committees of privileges, to whom was referred the petition of Richard Annesley, esquire, to his majesty, claiming the titles and honours of viscount Valentia and baron Altham of Altham in this kingdom, as son and heir of Richard late viscount Valentia and baron Altham; that the said lords committees have met and proceeded upon the matter to them referred, and upon considering the evidence and proofs laid before them, and upon full hearing of counsel for all parties, have come to the following resolution, viz.

Resolved, That it is the opinion of this committee, That the said Richard Annesley hath not a right to the said titles and honours of viscount Valentia and baron Altham, so claimed by him.

Upon which report and resolution, the question being put, that this house do agree therewith,

It was resolved by the lords spiritual and temporal in parliament assembled, That this house doth agree with the committee of privileges, in their report upon the petition of Richard Annesley, esquire, to his excellency the lord lieutenant of this kingdom, and by his excellency referred to this house by his majesty's order, claiming the titles and honours of viscount Valentia and baron Altham.

Ordered, That the lord chancellor do attend his excellency the lord lieutenant with the said report and resolution of the said committee, and the resolution of this house thereon, and desire that the same may be transmitted to and laid before his majesty as the opinion of this house on the said petition and reference.

T H E

THE lord viscount Ranelagh reported from the lords committees of privileges, to whom was referred the petition or memorial of Arthur Annesley, late of Rotterdam in the province of Holland, but now of the city of Dublin, esquire, claiming the titles and honours of viscount Valentia and baron Mountnorris in this kingdom; that the said lords committees have met and proceeded upon the matter to them referred, and upon considering the evidence and proofs laid before them, and upon full hearing of counsel for all parties have come to the following resolution.

Resolved, That it is the opinion of this committee, That the said Arthur Annesley hath not a right to the said titles and honours of viscount Valentia and baron Mountnorris, so claimed by him.

Upon which report and resolution the question being put, that this house do agree therewith,

It was Resolved by the lords spiritual and temporal in parliament assembled, That this house doth agree with the committee of privileges in their report upon the petition of Arthur Annesley, esquire, to his excellency the lord lieutenant of this kingdom, and by his excellency referred to this house by his majesty's order, claiming the titles and honours of viscount Valentia and baron Mountnorris.

Ordered, That the lord chancellor do attend his excellency the lord lieutenant with the said report and resolution of the said committee, and the resolution of this house thereon; and desire that the same may be transmitted to and laid before his majesty, as the opinion of this house on the said petition and reference.

The Lord William Russell reported from the lords committee of privileges, to whom was referred the petition of William Russell, late of Rochester in the province of Kent, but now of the city of London, claiming the title and honours of Viscount Russell and Baron Boscawen in this kingdom; that the said lords committee have not succeeded upon the matter to their report, and upon full hearing of counsel have come to the following resolution.

Resolved, That it is the opinion of this committee, That the said Arthur Annesley hath not a right to the said title and honours of Viscount Russell and Baron Boscawen, to be claimed by him.

Upon which report and resolution the petition being put, that this house do agree therewith.

It was resolved by the lords present and reported in parliament assembled, That this house doth agree with the committee of privileges in their report upon the petition of Arthur Annesley, relative to his claiming the said honours of this kingdom, and by his excellency ordered to this house by his majesty's order, claiming the title and honours of Viscount Russell and Baron Boscawen.

Ordered, That the lord chamberlain do attend his excellency the lord lieutenant with the said report and resolution of the said committee, and the resolution of this house thereon; and declare that the same may be read to and before his majesty, as the opinion of this house on the said petition and reference.

APPENDIX.

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A P P E N D I X.

L O R D A N N A L L Y.

My Lords,
THE single question on this resolution is, whether the sitting lord, lord Valentia, is legitimate; that is, whether the late lord Anglesey was married to the countess in the month of September 1741; for if he was, the other claims must fall to the ground.

And as I form my opinion singly upon this question, it is the only one, with which I shall trouble your lordships.

The evidence offered in support of this fact is first the testimony of lady Anglesey; secondly the certificate of the 15th of September 1741; and thirdly the declarations of the late lord Anglesey. I shall, my lords, take the liberty of considering each species of evidence separately by itself, and the several objections that have been made to them, in order to lay my thoughts more fully and distinctly before your lordships; and as I am far from being an advocate for any of the parties, I shall not lay greater weight on any piece of evidence, than I think, it will fairly and properly bear.

My lords, before I consider the evidence of lady Anglesey, on which, I imagine, this question will principally depend, it may not be amiss to consider, how the law stands in relation to testimony of that sort.

And, my lords, I take it, that in cases of this sort not only the evidence of the father and mother is admitted to prove the legitimacy, but even their declarations after they are dead.

But, my lords, I apprehend, the law goes much further; and the declarations of the parent have been admitted to prove the mar-

this sort; I mean the testimony of the parent.

Having thus shewn your lordships, why I clearly think, lady Anglesey is a competent witness; it will be unnecessary for me to shew, that her testimony is not inadmissible for the purpose of proving the marriage.

But, my lords, there is no doubt, but that her testimony is legitimate. I shall only add, that her testimony as to the point is confirmed by the certificate signed by herself, and the other declarations of Mr. Maffett, and all the other witnesses examined in behalf of lord Valentia.

Indeed, my lords, the gentlemen of the bar of counsel with the claimants have admitted, that if your lordships are of opinion, that there is an end of the case; and

that the marriage, even tho' made pending a suit in the ecclesiastical court, to avoid the punishment the party might undergo for adultery; and the reason, assigned in the book, from whence I take my authority (2 Burn's Eccl. Law, 31) is, because it amounts to what, the civilians call an half proof, and ought to be extended in favour of matrimony.

There is another authority, I must take leave to mention to your lordships, in order to shew how far courts go in admitting evidence of this sort; it is a very remarkable case reported by Sir John Strange; the case of *Williams and lady Bridget Osborne*. The question there was before the delegates, whether there was a marriage between the plaintiff *Williams* and lady *Bridget*; the minister, who married them, had formerly confessed it extrajudicially, but on the trial denied it upon oath; the point before the delegates was, whether the oath of *Williams* the plaintiff should be admitted, and the court were unanimously of that opinion, and the marriage confirmed.

My lord *Hardwicke* carried this matter infinitely further, and admitted the mother to be examined as a witness to prove the illegitimacy of her own child, tho' she was at that time a married woman, and her evidence exonerated her husband from the maintenance of the child. *King and Reading, Hardwicke's cases 73.*

Dare I presume to give my own opinion, I think, this latter resolution was going a great way, however such was the opinion of that great man; and I have mentioned these cases in order to shew your lordships, how far the law goes in admitting evidence of this

this sort; I mean the testimony of the parent.

Having thus shewn your lordships, why I clearly think, lady Anglesey is a competent witness; it will be unnecessary for me to state her evidence at large. She has positively sworn to the marriage in 1741. If you give credit to her, there is no doubt, but the noble viscount is legitimate. I shall only add, that her testimony as to the point is confirmed by the certificate signed by Neil, by the declarations of Mr. Masterion; and as to other parts of it by Miss Batt, and all the other witnesses examined in behalf of lord Valentia.

Indeed, my lords, the gentlemen of the bar of counsel with the claimants have all admitted, that if your lordships believe lady Anglesey, there is an end of the case; and have therefore made several objections to her evidence; some of which, I confess, carry great weight with them. Give me leave, my lords, to examine them separately. And first, it has been very truly said, that altho' the noble countess is a competent witness, yet for several reasons; particularly from her connection with lord Valentia, no credit is to be given to her testimony.

My lords, it cannot be contended, she is any way interested in the matter in point of fortune. The marriage in 1732 is on all hands allowed to be a good one. She has a jointure at all events of 1000 l. a year; and lord Anglesey, it is admitted, had a power to make that provision for her. I can't either, my lords, think, she is much affected in point of reputation, as her ladyship very candidly acknowledged (the question was not over delicate,) that her first child was born within four months, after she was first married.

From the manner in which lady Anglesey gave her testimony, she appeared to be a very good witness and to have great regard to truth. My lords, I have always thought, there is a great difference between swearing to matters of opinion and matters of fact. In the first case the connection or interest of the witness may bias his judgment, even tho' he had the greatest regard to the truth. But here lady Anglesey is swearing to a matter of fact, and must be perjured with her eyes open if she does not give your lordships a true account of that fact.

But, it has been objected, that the account given by the noble witness is incredible and improbable; and pray my lords, is there any part of the late earl of Anglesey's

conduct, that is not incredible and improbable? My lords, in order to judge of the credibility or incredibility of any man's actions it is necessary to consider the circumstances and situation, he was in, likewise his manner of thinking and acting on the like occasions.

Your lordships very well remember, that it appeared in evidence, lord Anglesey thought himself extremely injured by the articles, he entered into with Charles Annesley in 1737. These articles were decreed to be carried into execution. He considered this decree as a hard one, and appealed to the lords; where it was affirmed, and a sequestration issued to put Mr. Annesley in possession of the greatest part of his estate. He had conceived very strong resentments against Mr. Annesley. Now pray, my lords, is it improbable, that a person of lord Anglesey's violent way of thinking should determine to put an end to Mr. Annesley's title by marrying a very fair lady, who was with child by him at that time? This also seems agreeable to his way of acting on similar occasions. He married Mrs. Simpson twice, and probably when she was with child, and that when his wife was living, and he might be prosecuted for so doing. His second marriage with Miss Salkeld (if your lordships believe that account) was, when she was with child.

Another objection very strongly relied upon is, that this marriage was kept a secret from 1741 to 1749, when it began to be disclosed. But, lord Anglesey's situation will very easily account for its being kept a secret the greatest part of that time. In 1741 he had an account of the attempt made on him by James Annesley, that your lordships have heard of. His estate was then under sequestration, and he was obliged to resort for assistance to Charles Annesley, who was a man of reputation, and intitled to a remainder of his whole estate if he died without issue male lawfully begotten. It was natural and prudent for him to take care, that this secret should not be disclosed to Charles Annesley. Besides, it was material for lord Anglesey at that time to endeavour to keep up some sort of character; and his disclosing so unequal a marriage both as to years and fortune would not have contributed to do so.

But, my lords, it is objected, that tho' lord Anglesey might have kept this matter secret, yet why should lady Anglesey do so; and it has been said, it is very unusual for a woman to keep

keep a secret, especially so important a one, for so long a time. But, my lords, it is not very easy for one person to judge of the powers and abilities of another. It was of the utmost importance to lady Anglesey to keep this matter secret, till she got my lord's permission to disclose it. The consequence of disclosing it might have been fatal to her; he might and probably would have turned her out of doors, and possibly might have destroyed the certificate; so that her secrecy may be very well accounted for. Her fortune, her children's fortune, depended upon her observance of the promise, she says, she made lord Anglesey, when he married her. Consider, my lords, also his character, that (as one of the witnesses expresses it) he would have his own way. His treatment of Mrs. Simpson sufficiently informed lady Anglesey of the violence of his temper, so that if she was not the greatest fool, that ever existed, she must have kept her marriage a secret, till he thought proper to disclose it.

The next thing insisted upon, my lords, is, that lady Anglesey sometime about the year 1750 signed a release or a warrant to acknowledge satisfaction on a judgment by the name of Donovan.

But, my lords, lady Anglesey gives a very fair and full account of this transaction, and with what difficulty she was compelled to do so by lord Anglesey; and her evidence is confirmed by the testimony of Butler. His evidence also shews, that so early as in 1750 Mr. Annesley of Ballyfax suspected, there was a marriage, and expressed great pleasure in having got this instrument into his hands, which, he said, would be evidence against her some time or other.

My lords, it appears, this was a release on the back of Mr. Annesley of Ballyfax's bond, which was given up to him, and which, tho' in his custody, he has not thought proper to produce. When this piece of evidence was first produced, it struck me, that this bond taken in lady Anglesey's name was intended for her as a provision; and if she was then his wife, it was more natural to provide for her by his will, which he had a power to do. But upon considering it, and looking into the settlement, the objection in a good measure vanishes, as I find, he had a power by his settlement to charge the estate with a considerable sum for such uses, as he thought proper.

The gentlemen of counsel for Mr. Annesley have said, that if this was a real marriage,

lady Anglesey would not have suffered the claimant Richard (the son of Miss Salkeld) to live in the house. But, my lords, it appears she was greatly under the controul of lord Anglesey, and I believe, she would have found it very difficult to prevent him from bringing either Richard or any other person, he thought proper, into the house.

My lords, the length of time that intervened between the death of Charles Annesley and the marriage in 1752 has been also urged as an objection to the reality of the marriage. Charles Annesley, they say, died in 1747; why was the publick marriage postponed till 1752. As to this objection your lordships will recollect, that many of the witnesses swear, this marriage began to be disclosed about the year 1748; and I believe, that the marriage in 1752 was but a recent thought. Lord Anglesey endeavoured to try the ground first, and to get her visited by persons of condition as lady Anglesey, upon his declaring they had been married. This, appears from the evidence of Mr. Butler and Mr. Tottenham; and I myself believe, that the conversation, he had with Mr. Tottenham, was the cause of the marriage in 1752. When he found himself disappointed in his design of having her visited on the foot of the former marriage, he then took up the resolution of the second marriage. And when your lordships recollect, that Mr. Tottenham says, the marriage in 1752 was soon after the conversation, he had with lord Anglesey at Ross in relation to his lady's visiting lady Anglesey, your lordships will, I believe, think it more than probable, that that very conversation gave rise to the second marriage.

The next objection relied upon is, that lady Anglesey has not produced any letters from lord Anglesey, tho' she acknowledged, she received some letters from him. This, I confess, is somewhat extraordinary, but your lordships will recollect, this is a transaction of thirty years standing, and that for the greatest part of that time (except during the episode of Miss Salkeld) they were together; so that there could not have been any correspondence.

My lords, the next kind of evidence produced to support the marriage in 1747, are the several declarations of lord Anglesey and the wills made by him. And I must candidly confess to your lordships, that I think, very little

little reliance can be had upon them. If the question depended upon them, they would, at least with me, be of very little weight.

Mr. Edkins's account of his declarations just before his death seems to me most to deserve consideration. I would not be understood to imagine, that his constant attendance upon prayers strikes me as any evidence of his veracity. But those declarations were made some very short time, before he died, and when, he thought, he would die, and it is possible, he might have some apprehensions of a future state.

However for my own part I do confess, that if this question was to be determined upon the evidence arising from lord Anglesey's declarations, I should be very much inclined to vote against the noble viscount, as he claims through his father, and it is more reasonable, he should be affected by his misconduct than Mr. John Annesley.

My lords, the gentlemen of counsel with the claimant Mr. Annesley object, that there are clauses in the draft of lord Anglesey's will in 1752, which shew, he did not consider lady Anglesey as his wife; for, say they, he does not call her countess of Anglesey, but Juliana Donovan countess of Anglesey. The observation is ingenious, but I am convinced, your lordships are of opinion, it does not deserve an answer.

It has been objected too, that by this draft of a will he directs, the noble viscount should be sent to the temple, and appoints a maintenance for him during his residence there. And pray, my lords, why should he not be sent there? Lord Anglesey might not know, that an English peer could not practice at the bar. But is not such an education proper for a person, who is to be a member of the first court of judicature in Great Britain? and might not the knowledge, he could acquire there, be of great service to him in the conduct and management of his own affairs, which were likely to be sufficiently embarrassed?

Another will of lord Anglesey's has been read to your lordships, in 1754, wherein he recites, he had several natural children during his separation from Ann Prust; and, say the gentlemen, this refers to the noble viscount. But, my lords, when that will is considered, that clause of it clearly relates to the children, he had by Mrs Simpson and Glover. But, there is another clause in this will, that puts the matter out of all doubt; and that is the clause, wherein he recites, that

since his marriage with the said Juliana (who he mentions in a former part of that will as countess of Anglesey) he had several children, whereof four are living, which he enumerates, and among them Arthur lord Annesley, (the present noble viscount) his eldest son.

Your lordships will not surely construe an obscure clause in a will in such a manner as to make the whole will nonsense, and to contradict another clause which is explicit and clear; wherein he recites, he had the four children, he mentions in his will, after his marriage.

Your lordships will observe, that by this will he recites his intention of continuing his estate in his name, blood, and family, and settles it on lord Valentia in strict settlement, with a remainder to his three daughters by lady Anglesey. And this, my lords, puts me in mind of another objection, that has been insisted upon, which does not strike me as having any very great weight.

It has been said, that this limitation to lord Valentia for life shews, lord Anglesey considered him as a natural son; because he knew, if he was legitimate, he must have been tenant in tail by the articles in 1737, and the degree I have before mentioned to your lordships. It is answer sufficient to this objection to say, that he mentions in his will, he was legitimate.

But, my lords, it appears in evidence, he had other estates besides those comprised in the articles of 1737; and it was natural for him to desire to keep these estates in the family, as long as he could.

There is another very extraordinary piece of evidence has been offered by the claimant Mr. Annesley, and that is the evidence of Mr. Stopford Fielding.

My lords, (from Mr. Fielding's character) I do not believe, he intended to deceive the committee; but it is impossible to conceive, he had the conversation with lord Anglesey, he mentions to your lordships: That conversation, he says, was in 1752, after the public marriage; so that it contradicts the case of the claimants as much as of the noble viscount. Besides, my lords, he appears to be extremely confused, and in no sort to recollect facts, or the dates of them; and what contradicts his evidence, is, that lord Courtown was not appointed guardian to lord Valentia in a will, that was made by lord Anglesey two years afterwards. The account, that he gives of lord Anglesey's shewing him
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the plate, he bought for July, as he calls her, if it is of any weight, is in favour of the legitimacy of lord Valentia; and if he bought the plate for the purpose, he mentions, shews, he was married. A service of plate, my lords, would be a very extraordinary present for a kept mistress.

But, I mentioned, that I thought, little or no weight can be laid on those declarations of lord Anglesey; and surely, they can't be urged as evidence on the part of the claimants.

The next piece of evidence laid before your lordships is the certificate of the marriage by Mr. Neil the clergyman.

This certificate bears date in the year 1741; and many objections have been laid before your lordships to destroy or weaken the evidence, it carries along with it.

And first, my lords, it is said, that if it was intended to be kept a secret, it was attested by the most improper persons could be chosen for that purpose; that Charles Kavanagh was a drunken idle fellow, who might have revealed it in his liquor, and Nixon Donovan a young soldier who might have disclosed it out of vanity, and to keep up his credit.

But, my lords, when a man does an extraordinary or an indiscreet act in the opinion of the publick, he wishes, there should be no witnesses to it; but those over whom he has a command, and are under his immediate influence; and these persons seem therefore to me to be the fittest witnesses, he could pitch upon to attest such a transaction. Kavanagh was his steward and in his service; Nixon Donovan a young man to whom he had taken a liking; both of them entirely dependent upon him. Gentlemen have said, why was not lady Anglesey's mother or Mr. Donovan, a gentleman of fortune, and the head of the family, present? It might, my lords, have happened by accident; they were not. The mother, from the marriage she shortly after entered into with Tobin the smith, shews, she was not a person proper to be intrusted with an affair of this sort; and it does not appear, that Mr. Donovan had any connection with the poor relations of his family.

Another objection, greatly relied upon, is, that this certificate has not been properly proved, particularly the hand-writing of Nixon Donovan: My lords, in order fully to consider this matter you will give me

leave to mention to your lordships, how deeds are generally proved.

If, my lords, the deed is a recent deed, and the witnesses or any of them alive, it must, generally speaking, be proved by one of the witnesses: If the witnesses are all dead, their death and hand-writing must be proved, the latter only as to belief; but in common cases an antient deed, that is a deed above thirty years old (if there are other corroborating circumstances in the case, that is, if there are circumstances, that induce a probability, that the deed is a real one) such deed is real from its antiquity without proving either the death or hand-writing of the witnesses. I admit, my lords, that if any reasonable objection arises to such a deed, or any good cause of suspecting its reality, the court, in which it is produced, will go into other evidence relative to it: And if it was not for objections of this sort, this instrument from its antiquity need not be proved; but as, my lords, there are objections to this paper on the face of it, it was highly proper to go into the proof of it.

My lords, I am far from saying, Nixon Donovan's hand-writing is well proved; for the two witnesses (Ryan, I think, and Darcy) produced for that purpose, only swear, it is like his hand-writing, which they collect from seeing him write at school thirty years, and from a copy-book one of them had, in which was contained some writing of Nixon Donovan's.

But, my lords, in my apprehension this instrument appears before your lordships in a better light, than if the hand-writing of Donovan had been more fully proved. It in my opinion looks liker a real instrument.

My lords, how can it be supposed, that after this length of time Nixon Donovan's hand-writing could be better proved? He went immediately from school into the army, when he was a boy, and he died at nineteen, and was not in a course of life, that required him frequently to write.

My lords, it strikes me very strongly, that if this certificate was fabricated, the persons contriving it would have witnesses to it, whose names could easily be proved.

My lords, in my little experience I never knew any difficulty in proving the hand-writing of witnesses to a forged deed; because when the party forging the deed has the choice of what witnesses, he will put to it, he takes care to put names to

it he can easily prove. But, my lords, surely this instrument is abundantly proved. The hand-writing of Kavanagh, the other witness, has been proved in the usual manner, and no one person produced that can swear, he believes, that his name subscribed to it is not his hand-writing.

George Neil proves, that this whole instrument was wrote by Neil the clergyman; but it is proved in the strongest manner by lady Anglesey, who swears, she saw Neil put his name to it; which is better and stronger evidence than any proof by similitude of hands.

This is also very strongly confirmed by the testimony of Simon Kavanagh, who was one of the best witnesses, I ever saw examined.

Indeed, when this gentleman was first produced, and gave an account of the conversation between him and Neil, it struck me as something very extraordinary. But when it appeared afterwards, that his being produced as a witness arose from a general conversation, he casually had at the assizes, and when I considered the fairness and candour, with which he gave his testimony, I own, it had very great weight with me.

Much time has been taken up (and I think, my lords, unnecessarily enough) in examining into the character of Neil. I believe, he was a person, who had no great regard for decency; and what clergyman, who had, would keep company with lord Anglesey? He was very poor, and under a necessity of living with him, and consequently of making himself as agreeable to him as he could. But even allowing the facts to be as sworn, there is nothing proved, that goes to his competency as a witness, or indeed, I think, his credibility. Nothing, my lords, impeaches a man's evidence but his doing some act, that shews him not an honest man. Neil's character is certainly far from being unexceptionable, yet there is nothing proved against him, that can induce your lordships to believe, he would declare a falsehood. Even, my lords, a person being put in the pillory does not prevent his being a witness, except it is for some infamous crime, as forgery, or perjury, or something of that nature.

Another objection (and I think of weight) is, that the certificate appears to be erased and altered, particularly in the date and in the figures (15). I think, my lords, upon looking into the certificate there is some alteration; but what makes me imagine, it is not so material, is, that there appears to be

room for two figures, and it is the same thing as to the present question, whether it was dated the 23d, which seems to be the first date, or the fifteenth of September, because it appears from the evidence, that lord Anglesey was at Camolin-park on both those days. If indeed it was altered from the 3d to the 15th, it would have very great weight, because lord Anglesey was not in the kingdom on that day; but I think, it appears from looking on the certificate, that was not the case, and there are clearly room for two figures. But, my lords, tho' this circumstance may and ought to create a strong suspicion, it does not in my opinion go so far as to controll the positive evidence laid before your lordships, nor far enough to induce your lordships to damn the certificate as a forgery.

Many exhibits have been laid before your lordships, signed Charles Kavanagh; many of them are somewhat unlike the name Charles Kavanagh, signed to the certificate, and many of them unlike each other; but surely, my lords, it would be going a great way upon such suspicions to go against the positive evidence, that has been given in this case.

We all know, my lords, that people write very differently at different times, either from the different situation they are in, from their having either a good or a bad pen, and from many other circumstances; and it has been proved, that Kavanagh was addicted to drinking, and might from that circumstance, according as he was more or less sober, write differently.

It is very remarkable, that during this long enquiry, no one person has been produced, who swears, he believes the name Charles Kavanagh, subscribed to the certificate, is not the hand-writing of Charles Kavanagh, except Elizabeth Smally. My lords, rejecting the certificate on our own view would be at least a very strong measure, after the positive evidence laid before us. It would, I think, be making ourselves witnesses, instead of judging on the testimony before us.

Give me leave now, my lords, to examine the evidence given by Mrs Smally, and see if the least credit can be given to it. First she was examined as to the name Charles Kavanagh in the pocket-book. As I recollect her evidence, she swore, it was a surely his hand-writing, as that God made the world: Methinks the lady professed a little too much. No one, my lords, can swear to hand-writing farther than their belief, the

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law does not require more, because there is no hand, but may be counterfeited. The next part of her evidence, I mean, the very extraordinary conversation she had with Mr. Neil, seems to me incredible; your lordships recollect it, and I shan't repeat it.

Neil, my lords, she says, was a person entirely dependent on lord Anglesey: He was the person employed to forge this certificate; and by her evidence confesses him the chief actor in that transaction; and yet she would have your lordships believe, that without any temptation, without even desiring it to be kept a secret, he would disclose it to a little tattling woman; and what is still stranger, that he gives her this very extraordinary information in the presence of lady Anglesey's brother, who would probably immediately disclose it to his sister. So that, my lords, it is to me inconceivable, that such a conversation could have happened. When she comes to give an account of the certificate in 1741, your lordships will observe, she contradicts every title of evidence, she gave before the lords of Great Britain. She does not believe, she ever saw the certificate before. I asked her, whether she knew the hand-writing of Cornelius Donovan? She answered, she did perfectly well. She was then shewn the name Charles Kavanagh signed to the certificate in 1741, and she swore, she did not know, whose hand-writing it was, which is directly contrary to what she swore in England.

Supposing then, my lords, this certificate well proved, give me leave to consider, whether it is evidence or not; and I have no doubt, but it is proper evidence to lay before your lordships; the weight of it your lordships must determine.

I would observe to your lordships upon this head, that in Great Britain there are several acts of parliament, which direct the registry of births and marriages, and prescribe the manner, in which they shall be registered; and for that reason possibly (tho' I do not recollect any cases upon that head) the law may be, that a certificate, that does not pursue the directions of those acts, shall not be admitted as evidence: But, my lords, we have no such laws here, and therefore in cases of this sort the evidence must be governed by the circumstances of the case. The rules of evidence as to births and marriages are not so strictly adhered to as in other cases: It is only considered, whether the matter, proposed to be given in evidence,

is a circumstance likely to attend the fact to be proved.

For this reason it is, that inscriptions on tombstones, and entries in family-bibles, are always admitted as evidence to prove the birth, marriage, or death of a person: I allow, they are not considered as evidence of any great weight, but yet proper to go before a jury.

There is, my lords, no rule of evidence better established, than that the declarations of a wife shall not be admitted as evidence either for or against her husband; and yet that rule upon the particular circumstances of the case has been dispensed with: As on an action brought by a nurse for wages the declarations of the wife have been admitted to charge the husband.

Suppose, my lords, Neil had died, and an entry had been found in his pocket-book, that he had married lord Anglesey to miss Donovan on the 15th of September 1741; I do contend for it, it would be evidence.

The case of *Webb and Greenville* in Sir *John Strange's Reports* is stronger; where an entry in the attorney's book of a charge for a surrender was after his death admitted to be given in evidence to prove the surrender.

I do not, my lords, lay any stress on the cohabitation; because the question is, whether lady Anglesey cohabited with lord Anglesey from 1741 to 1752 as his mistress or his wife.

To come to a conclusion. Give me leave, my lords, to compare the evidence on both sides.

On the part of the noble viscount there is certainly a great deal of positive evidence, that has not been contradicted, and some circumstances that confirm that evidence. On the other side there are some circumstances, that render this case rather doubtful; but they arise more from conjectures and inference than positive evidence; and for my own part, my lords, I should be afraid to determine the estate, or property, or title of any man upon conjectures.

The trial in the court of Exchequer in this very family shews the danger of doing so: I mean the remarkable one in the case of James Annesley against the late lord Anglesey.

My lords, I think, I may say, that enquiry could not have lasted an hour, but from two acts of the late lord Anglesey; the one was his transporting the lessor of the plaintiff, and the other

other was his carrying on a prosecution against him, and endeavouring to have him hanged; and the jury (which consisted of gentlemen of the first fortune and consideration) concluded, that he never would have acted in that manner, or taken those steps, if he was not convinced, that he had a good title to his estate.

My lords, tho' this verdict was given by gentlemen of great consideration in their country, and after a very long enquiry; yet, when people's imagination began to cool, and their prejudices to wear off, the danger of dwelling too much upon conjectures of this sort, and departing from the rules of evidence, clearly appeared; and, I believe, there is not a man in the kingdom, who does not now consider the whole story of James Annesley as a meer fable.

I would only observe to your lordships, that if we should mistake in our opinion; there is a great deal of difference between a mistake arising from the consideration of evidence, and from following our own conjectures.

If we carefully consider the evidence, and endeavour from thence to find out the truth, and from their falshood we should form a wrong opinion, they, my lords, are answerable for that mistake. But if we depart from the consideration of the evidence, and go upon our own conjectures, we are answerable for the consequences.

I am very sensible, I have taken up too much of your lordship's time; but I flatter myself, the length of the enquiry, and the importance of the subject, will be a sufficient apology.

I am, my lords, much concerned, that the noble lord, who so properly presides in this assembly, does not think himself at liberty to enter into this debate. However I may approve of his delicacy, I can't but lament it, as I am confident, what, he would offer, would throw great light on this question, and much assist your lordships deliberations: For my own part, on the best consideration I can give the evidence on both sides, I think, it preponderates strongly in favour of the noble viscount.

I have not any very great difficulty in agreeing to the resolution on your paper, that the late lord Anglesey was married to the noble countess on the 15th September 1741. If so, the consequence is, that lord Valentia

is legitimate; and if he is, all the other claims fall to the ground.

LORD LONGFORD.

My Lords,

IF I looked upon the question, which is now the subject of your lordship's consideration, as depending upon the construction and right understanding an obscure or intricate point of law, I should certainly not attempt to trouble your lordships with any thing upon the subject; neither should I presume to give any opinion upon the decision of the question itself; but I look upon it to be altogether a plain question upon a fact, which in my apprehension every man of common reason, who has heard and attended to the evidence, may form an opinion and give a judgment upon.

In what I shall say, I do not mean or wish to draw over any body to my opinion; I do not mean to argue the case in favour of one party, and against another; but merely to shew the grounds, upon which I have formed my opinion, and which I now think the more incumbent on me to mention to the house, as I find, it differs from so great an authority as that of the learned and noble lord, who has just spoke before me.

If in the examination of this subject I shall be obliged to mention any thing harsh or disagreeable of the late earl of Anglesey, I hope, the noble sitting viscount will not look upon it as meant to throw any disrespect or reflection upon him; with reluctance I disturb the ashes of the dead; and with regret I find myself obliged in order to represent it in a true, to represent in an unfavourable, light the character of a man, who is now no more.

In all obscure transactions, which may be difficult to ascertain by direct proof, and for which recourse must be had to circumstantial evidence, it is necessary, before any such evidence can be admitted or believed, that the characters and situations of the persons concerned should be perfectly known and understood. The character of the late earl of Anglesey, the principal actor in this extraordinary affair, is so very generally known, that it is unnecessary for me to go into a particular detail of, and indeed at present I am not sorry, that it is so notorious, as it saves me the painful and disagreeable task of delineating to your lordships one of the most hideous characters

characters perhaps that ever deformed human nature.

This noble earl, we are told, after among many other achievements having married and deserted two wives, with both of whom he had received considerable fortunes; with both of whom he had lived several years, and by one of whom he had had several children; is supposed suddenly to have opened his eyes upon his former misconduct, and he is so smitten with the beauty, innocence, and simplicity of a country girl at an alehouse, that he determines an immediate reformation; and by way of atonement for his former misbehaviour in the life-time of both his wives he takes this girl under his protection, takes her into his house, and gets her with child. After some months passed in this manner Ann Prust, the first of the two wives I mentioned before, died in Devonshire, where she had resided for several years in obscurity and indigence. Lord Anglesey upon hearing of her death was in such a hurry to do justice to the injured innocence of this young lady, that he immediately goes over to Wales in order to lay hold on whatever effects his wife might have left. He never went ashore there, but executed a letter of attorney to a Mr. Lannis a surgeon, a trusty and probably a necessary friend of his, to administer to his wife's effects, and returns directly to Ross, and for fear of not being able to find a parson to marry him when he returned, he took one with him to Wales, and brought him back, with whom he proceeded to Camolin, as we have heard from the evidence. In a day or two after their return a marriage was proposed by my lord, which after some little hesitation on the part of the lady was agreed to, and they were married by Mr. Laurence Neill the parson, who had been brought for that purpose, in the presence only of Mr. Nixon Donovan, the lady's brother, a young trooper of nineteen or twenty, and Charles Kavanagh, a drunken steward of my lord's. This marriage, we are told, it was necessary to keep a profound secret, as lord Anglesey was said to be in the power of Mr. Charles Annesley, who, if he had known of it, would not have left him bread to eat. This was the reason, I suppose, why two such proper persons were selected to keep this important secret. Nixon Donovan, a young trooper, who from the natural levity of a young man, and from vanity on account of the alliance, would have been likely to have divulged it, or who, if he had had the pride and spirit of

a soldier, would have certainly declared it in order to save the character of his sister from the reproach of living with a man, when she was not his wife. The other witness, we are told, was so much addicted to drinking, that his hand-writing was affected by it; and every body knows, that a drunkard is the properest person in the world to intrust with a secret.

The best reason, that I have heard assigned for this marriage, was, that lord Anglesey, finding the lady with child, had a mind to have an heir in order to vex Mr. Charles Annesley, who was next in remainder, in case he had no legitimate issue male. Now, if that was really his motive, his resentment would have been more completely gratified, if he had declared the marriage; for revenge to a vindictive mind loses half its relish, if the person wounded does not know the arm, from which he received the stroke. Charles Annesley could not have been vexed at it, if he never had known it, and he had no children, who could be hurt at it after his death. As to what has been said of lord Anglesey's being in the power of Charles Annesley, whatever might have been the case afterwards, he certainly was not then in his power, for they were at that time in a state of open hostility; and lord Anglesey went over to England a short time after this alleged first marriage in order to prosecute an appeal in the house of lords of Great Britain against a decree, which Charles Annesley had obtained in the court of chancery here against him. So that till that decree was affirmed, and the sequestration was obtained by Charles Annesley, lord Anglesey was not in his power, and was more likely to shew his resentment openly than secretly against him.

In two or three months after the first alleged marriage in 1741 lord Anglesey, whether it was, that he was satiated with the lady, or whether he was struck with remorse at having married her, or at not having married her, or whether he thought the marrying one wife was not a sufficient atonement for deserting two, he went over to England, where in a short time his virtue and constancy were found not proof against the charms of miss Salkeld, with whom, by the friendly intervention of Mr. Hay he had got acquainted; he forgot his old and his new wife in Ireland, and proposed marriage to the father of miss Salkeld, to which the old gentleman refused his consent; but in a short time after, meeting the lady in the Park, she was not so in-
exorable,

exorable, she consented, and they were married first privately at May-fair, and afterwards in a very facetious manner over a bottle before a large company at lord Anglesey's house in London, as related by the evidence, and this without any injunctions of secrecy, or caring one farthing for Charles Annelley, or the bread that he was to eat; tho' this was in August 1742, after the decree had been affirmed in the house of lords of England, and he was then really in the power of Charles Annelley. Lord Anglesey staid at this time two years in England, where he lived with miss Salkeld, and left miss Donovan, the present lady Anglesey, at Camolin, she says, with a coach and four mares to attend her, and at the head of his family, and that, except taking the name, she was used in every respect as his wife: To be sure, his lordship had a very singular method of using his wives. But it appears by some papers, that are in the exhibits, that her ladyship was in very great distress; for there is a paper, which appears to be a letter from her to one Michael Lacey, I suppose, some servant or steward of lord Anglesey's; it is dated in May 1743, in which she tells him, That as he had told her, he would pay her any little money, she laid out for my lord's house, she sent him the under-written account, which contained three or four small articles, the amount of the whole being but six shillings and two-pence halfpenny; and she then begs, that he will send her the amount, as she is in great want of the money. This does not look like the letter of a nobleman's wife at the head of a family; nor can it be supposed, that she would, if she was then really married, have any longer submitted to conceal it, but would have called upon Neil and Kavanagh to have borne testimony, that she was his wife; at a time when it appears by her own letter she was so neglected and left in such distress; and at a time when she knew, lord Anglesey was actually living with another woman in England; for whom from the inconstancy of his disposition she had the greatest reason to fear being deserted and forsaken. Lady Anglesey tells us, she had received several very affectionate letters from lord Anglesey, when he was at that time in England, not one of which letters have been produced; tho' a person of her ladyship's understanding must have known, that such letters would have been the strongest support of the certificate, if she had ever been obliged to have produced it to prove her marriage.

So far I have been obliged unwillingly to enter into the character of lord Anglesey, to shew upon what I found my opinion, that he did not from interest, from love, from affection, from justice, from desire, or from resentment marry Juliana Donovan at the time, that is first mentioned in the certificate of 1741.

When a circumstance is offered to corroborate a fact, which is in itself doubtful, it is necessary, that that circumstance should be somehow analogous to the character of the person, from whom it is supposed to have proceeded: Thus, if it were advanced in order to shew the probability of a marriage between lord Anglesey and Miss Donovan, that such a marriage was necessary to gratify either his interest, his appetite, or his resentment, there indeed the character of the man would be brought in in support of the circumstance, and I should think it extremely probable; but when a tender or a sentimental affection is mentioned as a motive for the marriage of such a man, it must be rejected and laughed at by every body as absurd and most highly improbable.

Circumstances and probability being in my apprehension altogether against this marriage of 1741, let us inquire what proof is offered to us of it. Lady Anglesey herself is the only person, who swears directly to it; and with respect to her testimony I shall only say, that there are some trials, which are too severe for the feelings and affections of the human heart, and this I look upon to be one of them.

The next evidence (if it is an evidence) is the certificate of 1741, signed by Mr. Neil and witnessed by Charles Kavanagh and Nixon Donovan. Mr. Neil, whose character so much unnecessary pains in my opinion has been taken to establish, was the chaplain and companion of the earl of Anglesey, whom, we are told, he married to Miss Donovan without a licence or publication of bans, contrary to his duty as a clergyman, and at a time when he knew lord Anglesey had another wife alive, who was then actually carrying on a suit in the ecclesiastical court to establish her marriage; and if we can give credit to one of the witnesses produced to the character of this Neil, he had been turned out of a curacy in Dublin for some irregular behaviour of the same kind. This is the reverend gentleman, a gentleman of literature and morality, whose respectable signature

signature is to give so much authority to the certificate of 1741.

As to the hand-writing of Nixon Donovan, that certainly has not been proved; two poor ignorant, illiterate, wretches were produced to swear to it: It was shocking to find, that such evidences could be procured; I am sure, what they said could have no weight with any body, and I shall take no farther notice of them.

As to Kavanagh's hand-writing, I think, I can trust to my own eyes. Several people were produced, who swore, the name to the certificate, and the name signed to several of the exhibits, were the hand-writing of Kavanagh. Among these witnesses was Mr. Cornelius Donovan, brother to lady Anglesey, a person not altogether clear of the suspicion of having himself had a hand in the forgery; the others appear all to be either the debtors, tenants, or dependants of lord Valentia, and are all illiterate men, who could not possibly be judges of hand-writing. I don't know, what impression their evidence might have upon others, but all, I can say, is, that those, who can believe, that Charles Kavanagh wrote the name to the certificate, and the names signed to the exhibits, are of a different opinion from me. It is said, that Kavanagh wrote differently at different times: True, it appears by the exhibits, that he did; but tho' there appears a difference in the size of the letters, the style of the hand-writing is visibly the same in them all; he wrote a free ready running-hand, such as a person much used to writing usually does, which is apparent in the worst, as well as in the best, of his writing: but the name signed to the certificate is not at all in the same style; drunk or sober Charles Kavanagh could never have wrote it; it is an awkward stiff hand of a person, who wrote neither freely nor well, and was not much used to writing.

I own, it would be very hard to put the proof of a marriage, upon which the honour, the reputation, the estate, and every thing that is valuable in life, may depend, upon so precarious and uncertain a foundation as the similitude or dissimilitude of a hand-writing. When a man has been married and lived openly and reputably with his wife for a number of years, it would be very hard, and indeed very unjust, at a great distance of time to oblige him to prove his marriage any other way than by the notoriety and reputation of it; and, I suppose, no court in the world would insist on it, or expect it. But when

on the contrary a marriage is set up, which never was heard of, which not only was concealed, but repeatedly and industriously denied by the parties themselves; then, indeed, some better proof than the mere assertions of the parties, whose interest it is to establish the marriage, will be expected: and if a certificate should be produced in support of those assertions, which upon the very face of it bears evident marks of forgery and alteration, and the hand-writing of which appears at the very first glance strikingly unlike the writing of the person, who is said to have signed it, then indeed the dissimilitude of the hand-writing, added to the want of reputation, circumstance, and probability must operate not only with a great, but probably with a decisive, effect.

In the year 1752, we are told, that lord Anglesey thought it advisable to have the ceremony of his marriage performed over again, and Mr. Neil is again produced; several of the neighbours were invited to be present at the wedding, and before the solemnization of it Mr. Neil says, that he had married lord Anglesey to lady Anglesey at the time, that was mentioned in a certificate, which, he said, he had written at the time, and which he then held in his hand, but did not read out to the company. The marriage ceremony was then performed, and a certificate was immediately drawn up by Mr. Ianns, setting forth that lord Anglesey had acknowledged, that he had been married to lady Anglesey. When? not on the 15th of September 1741, but at some other time; for the word, that now appears September, has certainly been altered since the signing that certificate. It is plain, the word was originally October; it is apparently altered by a different hand, and certainly with a different ink. It cannot be conceived, that if there was a mistake in the date of so very material a paper, as this was, that it would not have been wrote over again, or at least, if they were so very slovenly and careless not to take that trouble, it would have been corrected on the spot by the same hand, and with the same pen and ink, with which it was written. If it was altered, as, it is plain, it was, after the witnesses signed it, it certainly is not the same, they signed to, and can give no strength to the certificate of 1741. This alteration does not seem to me to have been sufficiently attended to; it appears to me of the greatest consequence, and the reason is to me very obvious.

When

When the fabrication of this tale of a marriage in 1741 was determined upon, I suppose, it was not thought material, in what month after the death of Ann Prust it was supposed to have happened. In the beginning of September lord Anglesey was in Wales; and indeed he was uncommonly lucky in his winds, tides, and one horse chaises, to get to Camolin time enough to be married the 15th of that month. At the time of the marriage, the 8th of October 1752, it is most probable, that month was the uppermost in the thoughts of him, who wrote, or him who contrived, the certificate; the 15th of October 1741 was undoubtedly after the return of lord Anglesey from Wales, and a period at which at that time they did not imagine any exception could be taken; but, I suppose, upon a subsequent examination, when the hurry of this business was over, it was found, that unluckily the 15th of October would not do. The parliament of Ireland was then sitting, and lord Anglesey happened to be in Dublin; what was then to be done? Neil was always ready to oblige his patron, he was in his power, and at his command; Nixon Donovan and Charles Kavanagh, who were both dead, could just as easily sign a new certificate, as they had the first; but Mr. Masterfon, and those persons who were living and were present at the marriage of 1752, most probably could not be prevailed on to sign a new certificate, nor would it have been safe to have asked them; so that they were obliged to alter the one of 1752, to whatever time they thought it most convenient to date the certificate of 1741.

There is another circumstance, which strikes me as very material with respect to Mr. Neil; he it seems, sometime after the alledged marriage of 1741 was dismissed from lord Anglesey's family, if we can give any credit to that very extraordinary discourse upon the road, related to us by Mr. Kavanagh; from that time he lived in very great indigence and distress, and was occasionally relieved by some small contributions from the clergy; but it does not appear, that he ever got any assistance from lord Anglesey, to whom he had been so servicable. But after the marriage of 1752 lord Anglesey gave him twenty pounds a year, which he continued to enjoy till his death. He never gave him six pence all the time, that he kept the secret of the marriage of 1741, which it was of so much consequence to lord Anglesey

not have known or divulged: but when he could be no longer of any service by keeping, or do any mischief by revealing, the secret, then lord Anglesey allows him twenty pounds a year; the consideration for this pension, I think, must be obvious to every man. It is to be observed, that Neil did not sign the certificate of 1752; nor is there a word of Neil's declaration in it; but on the contrary it appears from Mr. Masterfon's evidence, that Neil, as soon as the ceremony of the marriage, went out of the room; he sculked off to be sure to avoid questions.

It is a truth, and a lamentable one, and it requires but very little knowledge of the world to have observed, that there are some persons, whose notions of honesty and truth are so very contracted, that they may be prevailed on to say, what they would not swear to; or to write and sign what they would be afraid to declare and to publish. This, I think, accounts for Neil's not signing the certificate of 1752, or reading loud the certificate of 1741: and, I think, the light, that Mr. Neil appears in during this whole transaction, fully justifies me for forming such an opinion of him. Neil lived till 1760, and no one step was ever taken by lord Anglesey by his means to establish the marriage of 1741 in the ecclesiastical court, tho' he had been repeatedly advised to it by his counsel; nor was Neil ever called upon to make any affidavit, or give any testimony of it, tho' they all must have known, how much such an affidavit was necessary to establish a marriage, which, they knew, would be contested after lord Anglesey's death; and which, as far as Ann Simpson could go, was then actually contesting in his life time.

As to the declarations of lord Anglesey, they were so many and so contradictory, that whether we believe them all, or whether we don't believe any of them, I think, it is exactly the same thing in the end; before 1752 they were uniformly (except in a very extraordinary instance or two mentioned by Mr. Talbot and Mr. Masterfon) against the marriage of 1741; after the transaction of 1752, it is not surprizing, that they were otherwise.

Nothing is so likely to create suspicion, or has so criminal an appearance, as when very unusual, extraordinary, declarations of innocence are made, when there is no charge or suspicion expressed of guilt. Those very extraordinary, unprovoked, declarations of lord Anglesey, mentioned by Mr. Talbot and Mr.

Mr. Edkins, shew clearly, that his mind was not undisturbed. He was haunted, as it were, with that marriage, which he had endeavoured to impose upon the world, and whenever the idea of it arose in his thoughts, he started at it, as Macbeth does at the appearance of the ghost of Banquo, which was unseen by all but by his own guilty imagination.

Tho' no sort of regard can be paid to the declarations of lord Anglesey, yet his actions must certainly have some weight; it is very extraordinary, that lord Anglesey from 1741 'till 1752, then pretty far advanced in years, never thought of making any provision for that wife and those children, for whom, we are told, he had so much regard and affection. After the death of Charles Annesley in the beginning of 1747 lord Anglesey had nothing to fear; it then became his interest immediately to have declared his marriage, and to have produced his heir, if he had one, in order to cut off the expectation of the right heirs of Charles Annesley, who were intitled to the remainder of his third of the estate, in case lord Anglesey died without legitimate issue male. Lady Anglesey, I think, says, that from 1747, or thereabouts, the secret was opening by degrees, and that lord Anglesey seemed desirous, that it should transpire, that there had been a marriage. Mr. Masterfon swears, that in 1748 or 1749 lord Anglesey called his wife lady Anglesey to one of the servants in his presence; this part of Mr. Masterfon's evidence escaped his memory, when he was examined in England. Indeed almost every one of the witnesses seem to have had their memories much refreshed, since they were examined there. If lord Anglesey was really desirous, that this marriage should be believed, what could be the reason of that extraordinary compulsion and cruelty, so much complained of by lady Anglesey, in forcing her to sign her maiden name to a warrant for acknowledging satisfaction upon the record of judgment, obtained in her name against Mr. Annesley of Ballyfax in 1749? If he had been desirous of divulging his marriage, he never could have had a better or fitter opportunity, than this was.

I think, nothing can set this whole affair in a clearer light, than the situation that lord Anglesey was in with respect to his estates, and the disposition which he has taken upon him to make of those estates by his will; two thirds, and after Charles Annesley's death the whole of the Irish estate, except

a very inconsiderable part, he knew by woeful experience, he was but tenant for life of; and yet he takes upon him to leave these estates to his son (who, had he been legitimate, must have had them, whether he chose it or not) subject to several restrictions and limitations, and incumbered with several charges which he had no right to make; for, as far as his power went, he had already executed it in favour of Ann Simpson and her children. Richard Annesley, one of the claimants, having accepted a legacy under this will, is urged as a proof and confession of his illegitimacy; and, I think, lord Valentia having submitted to accept of the estate under the same will is a much stronger proof and confession of his illegitimacy.

The number of contradictions, that are to be found in lord Anglesey's wills, only shew the confused and disturbed state of mind of the person, who dictated them. In that part of his will, where he says, that before his marriage with his present wife he had several children by different women, and among them names Richard Annesley, who was born in 1743. It cannot be supposed, that he meant by this to declare to the world, that those children, which he had taken such uncommon pains to have believed legitimate, were bastards; it can only be looked upon as the natural effect of that confusion and inconstance, with which, happily for mankind, even the best concerted plans of fraud are almost constantly attended.

Much stress has been laid upon the last will of lord Anglesey; it has been said, would a man in the last solemn act of his life, in the presence of God, declare and put his hand to a falsehood or a fraud? A good man certainly would not. But this will, which expresses so much tenderness and pious care of lady Anglesey and her children, does not carry the same spirit of Christian charity and benevolence throughout; he there makes a provision for one wife and one set of children by robbing another wife and another set of children. That poor woman, Ann Simpson, whom he had betrayed and deceived into a marriage, whose fortune he had received and spent, and whose poor paltry annuity of 20l. a year, which she had from her parents, he had made her levy a fine of and sell for his use; who he treated so cruelly, while she lived with him, and who he so unjustly and inhumanly put away from him, who he had robbed of the settlement, which he had made as a provision for her and her children;

what

what care does he express for them? what recompence does he give them? what provision does he make for them? None! He does not even give them, what was their own, but expresses himself with respect to them in terms of resentment and contempt, and endeavours to fix an imputation on the character of one of his daughters, who by his injustice and cruelty had been necessitated to marry a musician for her support, which should blast her character, when he was in the grave. This is the will, the piety and solemnity of which is to give such an authenticity to the declarations of lord Anglesey as to the legitimacy of his son.

It is a maxim in law, I have heard, that when a false or a perjured witness is produced, the fact, which he comes in support of, not only remains unproved, but the reverse, as far as is possible, is to be taken for granted, for this obvious reason, that it cannot be supposed, a false witness will be produced to a true fact. I shall beg leave to call to your lordships recollection the evidence of James Darcy, an illiterate fellow, who swore to the hand writing of Nixon Donovan, who, he said, he had only seen write, when he was at school at about nine years old, near forty years ago; whose writing, he says, he never saw since that time; and yet from the knowledge and recollection he pretends to have of his hand at nine years old, he swears plump to what he is supposed to have written, when he was nineteen or twenty years old. Surely the testimony of this miscreant requires no comment; he was a false and a perjured witness. If from the perjury of this man, and the very great dissimilarity of the name of Kavanagh in the certificate of 1741 from the names in the exhibits, which are proved and admitted to be his writing, it shall appear, as it does to me, that the certificate of 1741 is a forgery, it must destroy the credit of lady Anglesey, who swears positively to the execution of it, and her testimony must fall to the ground.

Whether lady Anglesey according to the strict letter of the law is to be looked upon as a competent witness, I cannot pretend to judge: I suppose by her being admitted here, that she is. But if for so small a consideration as five shillings the law positively refuses to hear the testimony, because it does not expect truth from the mouth of an interested witness, reason, I am sure, to which, I have been told, the law has some relation, must receive with caution the testimony of my lady

Anglesey. Surely no man can be made to believe, that because she may not come under the exact description of such a person, as the law must positively reject, that she is therefore to be looked upon and have full credit as a disinterested witness in a cause, upon the determination of which every thing almost, that can be dear and interesting to her, her son's honours and perhaps fortune, her own honour, character, and reputation, must almost entirely depend. Can there in nature be a more interested situation?

I believe, I am as far from harbouring in my mind any illiberal notions or ill grounded suspicions of the integrity of others, as any body in this house; but there are many cases, and I am sure this is one, which not only justifies but requires suspicion.

Much has been said, and much stress has been laid on, what has been called the rules of evidence. If by the rules of evidence it is meant, that a man must give credit to any story, however improbable and repugnant to his reason and senses, that is told him and sworn to by a witness, if a man must not make use of the light of his own understanding, such rules shall never govern my conduct. I do not know, what dominion other men may have over their senses, or what command they may have in the direction of them; for my part my senses (I don't mean my passions) have always had the direction of me. I cannot believe that to be black, which I see to be white; I cannot believe that to be true, which I know, and which my reason tells me, must be false or impossible, tho' some be absurd enough to tell it to me, or tho' others may be found wicked and abandoned enough to swear to it. No man, who wishes to discover the true colour of an object, must look at it thro' a prism; no man, who wishes to discover the truth of a proposition, must examine it thro' the false medium of subtle and sophisticated logic.

I have as much compassion for the situation of the noble viscount, whose honours are now in question, as any man can have; I am sure he believes himself justly intitled to them; and whatever improper steps have been taken either to acquire or continue for him the possession of them, I am convinced, that none of them are to be attributed to him.

I have attended carefully and attentively throughout the whole of this fatiguing and tedious trial. Truth was the only object of my pursuit; I thought, I discovered her early in the trial; and I think, I have been

able

able to keep sight of her throughout the whole without the assistance of a glass; and after the most mature consideration that I have been able to give it, after weighing every circumstance and every evidence as a candid and an honest man, which without the imputation of founding my own praise, I hope, I may be allowed to call my self, I find my honour, my pride, my duty to my

country, to this house, to my family, and to myself, and that justice, by a strict observance of which I can only be intitled to hope for mercy in another place, oblige me to give the opinion, that I now do; That I do not believe, that Richard late earl of Anglesey was married to Juliana Donovan on the 15th of September 1741.

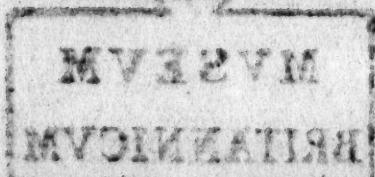
Indorsed (A). 3 barrs 10 stone & ½ of Wheat 2 : 12 : 10½ Recd dated 1st: Decr. 1749

Reced from Mr John Parsley for the use of the R^t hon^{ble} y^e Earl of Anglesey three Barrells ten stone & half of Wheat, this 3^d of 8ber 1749
Chas Kavanagh

Reced from y^e R^t Hon^{ble} y^e Earl of Anglesey by Ja^s White Esq^r. two pds twelve shill^s & ten pence ½ in full for the above Wheat Decr 1st 1749

John Paslow

£ 2 .. 12 .. 10 ½



*Indorsed (B). Chas Kavanagh's letter to Mr Ja^s White & recd for £ 2 : 4 : 3
Dated 15th Janu^{ry} 1746*

Sr.

I am ordered by my lord Anglesey to desire that you would be pleased to pay Mr Leonard Bennet Sadler the sum of two pounds four shillings and three pence for Sadlers work don for his Lordpp's use dated this 17th: day of Decem^r. 1746

To Mr James White
at Peppards Castle

Charles Kavanagh

Sr.

be pleased to give Mr Jones credit for the above bill
Leonard Bennett

Recd the contents this 15th day of Jan^{ry} 1746
William Jones

Indorsed (C)

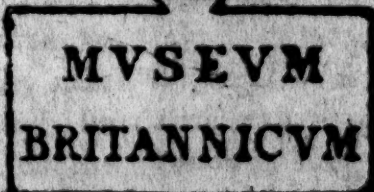
I Doe hereby Certifie that I never will prosecute or agree to any Prosecution against the hon^{ble} Ric^d Annesly on acco^t. of any marriage contracted to any one formerly or that shall be contracted between the s^d. Rich^d Annesly and my Self and I have on acc^t. of his obliging my father and hearing of a prior engagem^t. this Day given my Oath to the above Certificate as wittness my hand this Dec^{ber}. the 22^d 1726
Anne Simpson

THE END.

able to keep light of her throughout the whole without the assistance of a glass; and after the most mature consideration that I have been able to give to, after weighing every circumstance and every evidence as a candid and an honest man, which without the imposition of imputing my own pride, I hope, I may be allowed to call my tale, I find my honour, my pride, my duty to my country, to this house, to my family, and to myself, and that justice, by a strict observance of which I can only be enabled to hope for mercy in another place, oblige me to give the opinion, that I now do; That I do not believe, that Richard late earl of Arundel was married to Juliana Bonovon on the 15th of September 1741.

Indulged (B). 2 parts in force of 4 of Writings: 12: 101. Recd dated 1st Dec. 1749
Recd from Mr. John Parker, the use of the Rth Honblest Earl of Arundel three
Bancroft ten shone & half of Writings, this 3rd of Dec 1749
Chas. Kennaway

Recd from Mr. Rth Honblest Earl of Arundel by Jas. White Esq^r. two pgs twelve shillings
in full for the above Writings Dec 1st 1749
John Parker



Indulged (B). Chas. Kennaway this 1st of Dec 1749
Dated 15th Janu 1746

I am ordered by my lord Arundel to desire that you would be pleased to pay Mr. Leonard Bennett the sum of two pounds four shillings and three pence for 2ad-
last work done for his Lordship's use dated this 17th day of Decem^r. 1746
Chas. Kennaway
To Mr. James White
at Roper's Castle

So pleased to give Mr. Jones credit for the above
Leonard Bennett
Recd the contents this 15th day of Jan^y 1746
William Jones

Indulged (C)

I Do hereby Certifie that I never will prosecute or agree to any Prosecution against the honble Rich^d Arundel on acct^{of} of any marriage contracted to any one formerly or that shall be contracted between the Rth Rich^d Arundel and my self and I have on acct^{of} his obliging my father and hearing of a prior engagement, this Day given my Oath to the above Certifie as witness my hand this Decem^r. the 22nd 1746
James Simpson

THE END.

